Understanding and Eradicating Bonded Labour in India

Compiled by

Kiran Kamal Prasad

"It is expected that the compendium will help all those concerned with the issue of bonded labour to get familiar with all the various options available within the present structures to get justice to bonded labourers and to make use of the recommendations in sensitising the government machinery on the enormous task that is required of them and to make them do what is necessary in the interest of bonded labourers. It may also be of great help to bring back the issue on the political agenda of various political parties. Mainly, it should prove to be an effective tool to take stock of the situation on bonded labour at present and to see how best to address the issue whether by way of appropriate amendments to the Act on Bonded Labour or evolving suitable administrative mechanisms to support the cause of bonded labour"....

Since all the Reports and Recommendations put together in this volume are official records, they should carry weight with all the officials concerned, whether administrative, police or judicial, in making them do what is required of them.

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UNDERSTANDING AND
ERADICATING
BONDED LABOUR IN INDIA

UNDERSTANDING AND ERADICATING BONDED LABOUR IN INDIA

A Compilation of Seven Reports and Papers, containing also various Recommendations, on Bonded Labour in India, by the Government of India, National Human Rights Commission and the International Labour Organisation

Compiled by
Kiran Kamal Prasad

Foreword by
Babu Mathew

Jana Jagrati Prakashana
Bangalore-560 072

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FOREWORD

There is slavery in India even today. The Indian form of slavery is deeply embedded in the caste system and since the caste system itself is thousands of years old the Indian form of slavery is equally old. The caste system has so many forms of discrimination and oppression built into it that some of these forms often fail to draw pointed attention. The bonded labour system is one such. It is something which is lesser known and even lesser is it recognized partly because it gets camouflaged within the wider evil of the caste system itself. To begin with it is interesting to note that not all dalits may be bonded labour but almost all bonded labourers are dalits-especially when it comes to the agrarian sector. It is therefore not just a form of economic exploitation. It is very much a social form, a cultural form and may even be considered a political form.

It is interesting to note that Arthashastra classifies instruments of production into living and non-living and further says that among the living there is the dumb variety (Cattle,Ox,etc.) and the speaking variety-meaning the human being or more precisely the bonded labourer-who is but an instrument of agricultural production.

The present volume which is in your hands brings together very valuable extracts from more than half a dozen sources. These sources are derived from texts which were written at different points of time and in different contexts. Yet all of them deal with one issue and that is the issue of bonded labour. Every single source contained here is an authoritative one. Many of them are the result of commissions appointed by the Government of India. These commissions were charged with ascertaining the reality, deciphering the complexities and suggesting ways and means of eradicating this shameful evil.

There is no authoritative work which can deny the existence of this evil form of slavery even after so many years of "modernity". The constitution of India had recognized this form of slavery and banned it in no uncertain terms. The ban is contained in the chapter on Fundamental Rights itself. There is nothing more important in the

Indian legal regime than the chapter on fundamental rights and therefore one must assume that there was the highest political will and unanimity in the constituent assembly to do away with this pernicious practice. Interestingly the Constitutionalists did not think it adequate to be satisfied with abolition of untouchability. They thought it fit to write yet another article that specifically banned *begar* and bondage through Article 23.

More than two and half decades after the constitution became the law of the land-it was realized that bonded labour would not disappear through declarations alone-even if such declarations were contained as fundamental rights. Hence a special law was enacted. This law called the Bonded Labour Abolition Act was enacted in the year 1976. It was the year of the emergency. Ironically enough bonded labourers had to await emergency conditions to receive a piece of legislation that provided very elaborately for their liberation.

Every good piece of legislation –especially those pertaining to complex social realities requires thorough and well grounded understanding and knowledge of that particular phenomenon. Those who drafted this particular enactment had such knowledge. It can be asserted that the Bonded Labour Abolition Act is one of the best among laws that seek to deal with social evils in India. This law is crafted by eminent civil servants whose understanding of the working of the bonded labour system was outstanding. It is a piece of legislation with very few parallels.

Why do we say so? Take the laws that seek to deal with child labour, or migrant labour, or sex work or manual scavenging. None of them go beyond regulation or abolition. This law takes unprecedented strides towards transforming the social reality not only by creating sanctions against the perpetrators but also by making it incumbent on the state, with the involvement of civil society and state institutions to proactively intervene and create the conditions for moving from formal liberation to real rehabilitation.

In this context it is necessary to capture briefly the core of the Act. Three steps are envisaged. The first step is identification, the second is release and the third is rehabilitation. So many well meaning administrators have invoked the law and got into action. They have bravely welcomed and even identified bonded labour, often against heavy odds-fewer among these well meaning civil servants have gone to the next step of release and then when it comes to the final step of rehabilitation almost none have gone the whole way and completed the task

There is a huge body of literature dealing with the reality of bonded labour, the potential available within the statute for identification, release and rehabilitation and drawing attention to a plethora of case laws laid down by the Supreme Court. Let us take note of few of these suggestions.

1. It is necessary to recognize the reality of agrarian bonded labour as being embedded within the agrarian question.
2. This means recognition of abject poverty, unrepayable debt, lack of freedom to seek alternate employment through the market as causative factors.
3. The malice is therefore rooted in the vicious nature of feudal practices.
4. The above is further aggravated by the caste system and therefore closely intertwined with the rural power structure.
5. Legislation interventions therefore need to create the material conditions required for released bonded labour to rehabilitate himself or herself.
6. Pure tokenist allocation of fragmented land holdings would but be an eyewash.
7. Determined efforts therefore be made to create conditions for viable landholdings which can be cultivated jointly by bonded labour households preferably ensuring that appropriate title is vested in the hands of women in such households.
8. Money lenders and violators of the law must be publicly identifiable. Oppressors must be made aware of the illegalities committed by them and serious criminal prosecution should be simultaneously launched.
9. Vigilance committee is conceived of very creatively under the statute. Representation is provided even for financial institutions, nominees from SC, ST and persons with experience on social work.
10. Opportunities for the creation of functioning cooperatives should be part of group rehabilitation and

11. Released bonded labour should be given high priority under the National Rural Employment Guarantee Act.

It is critically important to recognize that the three steps suggested in the law are not separate things. They constitute a comprehensive package. Experience has almost proved to us –with rare exceptions – that if we cannot envisage and put together a complete and comprehensive package of identification, release and rehabilitation together, as part of one exercise, in mission mode, then it is better not attempt anything at all. Undertaking only one or two stages in this journey of liberation from bondage is tantamount to reinforcing the institution of slavery. This is so because a bonded labourer liberated by the force of the state will voluntarily return against the intention of law to bondage under even more subservient and humiliating conditions-where the criminal violator would taunt the liberated slave-oh! Why have you returned.? Come lick my boots now. And don't you raise your voice again and don't you dare return to the company of those who came pompously to liberate you-including the District Magistrate.

No law in India which has a welfare content in it is ever implemented automatically either by the law makers or the administrators. Many a times judiciary has given a powerful push. The Asiad case is the outstanding example so far as bonded labour is concerned. Perhaps we all know what is necessary to bring about successful liberation of bonded labour is the creation of political will. Let us remember that political will comes in two forms that which originates from above and that which can be generated from below. One wishes that both were possible but even when the former is lacking the latter should not be found wanting. Bonded labourers need their own agency. If the bonded laour act is to be implemented, unionization of bonded labour is a top priority. We encourage JEEVIKA and the Union of Bonded labourers and Landless Agricultural Workers in Karnataka to pursue this path with determination as they have done so well in the past.

Babu Mathew

Date: 10-02-2008

Country Director
Action Aid India
New Delhi

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PREFACE

The idea of bringing out a compilation of the well formulated and well meaning reports and recommendations on bonded labour, published by or submitted to the Government of India and the National Human Rights Commission, is very much needed in the face of rampant ignorance of them and the basic Statute and the Supreme Court Judgments on bonded labour on the part of the officials concerned. Being government publications and documents in official files, the grass root activists also do not have easy access them.. It is hoped that these reports and recommendations will generate a new interest on bonded labour issues and strengthen the hands of the various agencies struggling against the evil.

The various reports and recommendations by the Government and the National Human Rights Commission have been taken from the Government Publications and the Reports submitted to it and to the National Human Rights Commission. While getting them ready for including them in this volume, obvious typing errors have been rectrified. Two Working Papers, published by the International Labour Organisation, Geneva, have also been included. The ILO has granted permission to reprint those papers in this volume. We are very grateful to the ILO for that. The copyrights for those two papers remain with the ILO.

Various persons and organisations have helped us in bringing out this compilation. First and foremost, HIVOS, Bangalore has given a generous grant to meet the costs of printing. Jalaja, Manjula M. and Manjula N. helped in typing the matter. Prof. Parthasarathy has helped in correcting the proofs. Mr. Vivekanand has designed a meaningful cover page and Indraprastha Prakashan has got the book printed neatly and in record time. Prof. Babu Mathew has written an inspiring foreword. It has added weight to the purpose behind this publication. To all of them I am immensely grateful.

Date:14-02-2008

Kiran Kamal Prasad

INTRODUCTION

Bonded Labour is still a very grave social evil that requires to be tackled in earnest. Abolition of forced labour falls under Part III of our Constitution dealing with fundamental rights. Further, India is a signatory to a number of Conventions of the International Labour Organisation and the United Nations that forbid forced labour, slavery and slave trade. The Bonded Labour System (Abolition) Act, 1976 aims to eradicate the evil totally. Under the Act, a number of initiatives have been taken up by the Government and Non-Government Agencies. But the enthusiasm and zeal of the initial years are not being witnessed at present. Only a handful of organisations in different corners of the country are struggling to secure justice to bonded labourers. The government at present seems to be totally silent on the issue. The National Human Rights Commission has been entrusted with the task of monitoring the implementation of the Act on bonded labour by the Supreme Court in 1997. In spite of its various efforts, the apathy of the government seems to be getting more entrenched.

We are at a critical juncture where we require to assess our interventions so far on bonded labour and plan anew for the future course of action. This necessitates taking stock of the situation on bonded labour in India by pooling together the rich experiences and learnings of the past involvement. The NGOs still active on the issue and other individuals having a deep concern for it are also required to think of new alternatives to tackle the issue. In this context, it is essential to take note of the clarities provided by the various judgments of the higher courts, especially the Supreme Court. The various commissions and committees set up by the government on

Rural Labour, Bonded Labour and Unorganised Labour have come up with very good reports and recommendations on how best to tackle the evil. The National Human rights Commission also constituted a committee to make suitable recommendations on bonded labour. It has come up with a pertinent report. The International Labour Organisation has brought out two insightful Working Papers on bonded labour in India.

Bringing together in one volume some of the important reports and papers on bonded labour which had already been published by the Government of India and the International Labour Organisation or those submitted to the Government of India and the National Human Rights Commission could answer some of the requirements identified above. In this volume, for the purpose of reviewing the present situation of bonded labour, we have selected four reports of the Government of India, published or circulated in 1991, 1994 and 2002, one report submitted to the National Human Rights Commission in 2001 and two papers by the International Labour Organisation published in 2001 and 2005. They present a detailed picture of bonded labour in different parts of the country from the earliest times to the present, document thoroughly the initiatives by various agencies up to the period under consideration, grapple the issues of definitions, especially through the Judgments of the Supreme Court, critically analyse the various aspects involved and suggest appropriate recommendations for effective action in the future.

The first two reports are from the two volumes of the Report of the National Commission on Rural Labour published in 1991. Chapter 8 of Volume I deals exclusively on bonded labour and is almost a summary of the Report of the Study Group on Bonded Labour appearing in Volume II. Both these 'chapters' have been included. The summary version helps us to grasp the issues in a short time; whereas the Report of the Study Group gives in rich detail the factual situation of and action taken on bonded labour in different states. They also contain various recommendations to the government for effective implementation of the provisions of the Act. The Report of the Central Committee on Bonded Labour in 1994 has given good recommendations on the definitions of bonded labourer and bonded labour system and on the modalities of procedures for the identification of bonded labour. Similar recommendations are also found in chapter 8 of the Report of the National Commission on rural Labour and in the Report of the Committee set up by the National Human rights Commission. The Chapter on Unorganised Sector in the Report of the National Commission on Labour, published in 2002, though has not gone into the question of bonded labour specifically, gives good many references to bonded labour while depicting the various segments of the unorganised sector. This shows that bonded labour is very much alive and a challenging issue to deal with even in the era of economic reforms and globalisation and cannot be brushed aside that easily. Since bonded labour is linked to a great extent with unorganised sector, it will be pertinent to take note of the trends in unorganised sector if only to understand the emerging new forms of bonded labour and take appropriate actions. The Report highlights nearly twenty-two forms of unorganised labour and two forms of exploitations like piece-rate work and payment below minimum wages where bonded labour is still prevalent. In some of these forms, the presence of bondage is acknowledged explicitly; but in other forms of unorganised labour, though there is no explicit mention of the presence of bondage, possibilities of bonded labour seem to be clear.

The report of 2001 on bonded labour by a Committee set up by the National Human Rights Commission highlights the role of the Commission in tackling bonded labour. It also gives a number of meaningful recommendations for the effective redressal of the system of bonded labour. The paper on the incidence and pattern of bonded labour published by the ILO in 2005 gives a very recent account of bonded labour. The other paper published in 2001 by ILO on a perspective plan to eliminate forced labour in India by Dr. L. Mishra, who had played an active role for a number of years in the Government in tackling bonded labour with sensitivity and great concern, brings out forcefully the various requirements for taking purposeful action against bonded labour. The historical background given in the paper also helps us to understand various forms of bonded labour in India.

It is expected that the compendium will help all those concerned with the issue of bonded labour to get familiar with all the various options available within the present structures to get justice to bonded labourers and to make use of the recommendations in sensitising the government machinery on the enormous task that is required of them and to make them do what is necessary in the interest of bonded labourers. It may also be of great help to bring back the issue on the political agenda of various political parties. Mainly, it should prove to be an effective tool to take stock of the situation on bonded labour at present and to see how best to address the issue whether by way of appropriate amendments to the Act on Bonded Labour or evolving suitable administrative mechanisms to support the cause of bonded labour. Since all the Reports and Recommendations put together in this volume are official records, they should carry weight with all the officials concerned, whether administrative, police or judicial, in making them do what is required of them.

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1

BONDED LABOUR
Chapter 8, Volume I

REPORT OF THE
NATIONAL COMMISSION ON RURAL LABOUR
Governament of India
Ministry of Labour
New Delhi-1991

Background

8.1 The age-old inhuman system of bonded labour combines the worst and extreme features of exploitation and discrimination. It has its roots in the socio-economic structure in the rural areas characterised by feudal conditions, hierarchical caste system, abject poverty and ignorance coupled with social customs. The need to have money for subsistence and for social obligations lead to taking loans or advances in cash or kind by mortgaging their labour which leads to 'debt bondage' which may continue over generations. The servitude may extend to a member or members of or the whole family. Bonded and forced labour go by different names in various parts of the country – for example – Gothi, Vethi or Bhagola in Andhra Pradesh, Kamiya in Bihar Jeetha in Karnataka, Paniyans and Adyans in Kerala, Kamiya, Harwah or Hali in Madhya Pradesh, Vet or Begar in Maharashtra, Dadan in Orissa, Hali in Rajasthan and Padiyals in Tamil Nadu. There is also the 'banihari' system where labour at below the market wage is extracted in lieu of homestead land and an allotment of an uneconomical parcel of land for family cultivation and consumption, besides loans for family and ceremonial consumption. There is the 'jajmani' system under which servicing and artisan caste households provide by traditional custom services and goods to fixed client households (jajmans) in the villages in exchange of stipulated quantities of grains and other payments. Some can sell their skill and service in the market also and some cannot – thus performing partly or wholly forced labour. The bonded labour system is prevalent both in agriculturally backward as well as forward areas and there have also been cases of serial bondage where a bonded labourer goes from one master to another in the form of trading. This system which was largely confined to the agricultural sector is now seen among workers in stone quarries, brick kilns, construction sites, forestry, carpet weaving, fishing, bidi making, match works etc. which also engage migrant and/or child labour. The 'bondage' results from advances given against future wages, which are paid at rates lower than statutory fixed minimum.

Definition and legislation

8.2 Certain legislations on this as well as on debt relief etc. were passed in various States. Article 23 of the Constitution prohibits traffic in human beings and 'begar' and other similar forms of forced labour (begar means labour or service exacted by Government or a person in power without giving remuneration for it. Forced labour is an expression attracted when a person is compelled to give his labour or service or accept employment at wages or remuneration less than statutory minimum wage). It was in 1975 that the Bonded Labour System (Abolition) Ordinance was promulgated followed by the Bonded Labour System (Abolition) Act, 1976.

The Act, inter-alia enumerates certain forms of forced labour under social custom though this does not include banihari or jajmani systems.

8.3 The Act defines "Bonded Labourer" as a labourer who incurs, or has, or is presumed to have, incurred a bonded debt. According to the Act "Bonded Labour" means any labour or service rendered under the bonded labour system. "Bonded Labour System" means the system of forced, or partly forced labour under which a debtor enters or has or is presumed to have entered into an agreement with the creditor to the effect that:

(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of an obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community,

he would—

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or

(2) forfeit the freedom of employment or other means of livelihood for a specified period or for unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market value any of the property or product of his labour or the labour of a member of his family or any person dependent on him and includes the system of forced, or partly forced labour under which a surety for a debtor enters, or has or is presumed to have entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor.

By an amendment in 1985, the system of forced or partly forced labour under which contract labour and migrant labour is required to render labour or service with similar conditions or disabilities was also defined to be a bonded labour system.

8.4 Section 12 of the Act requires such action as may be necessary to eradicate enforcement of the bonded labour system or any other system of forced labour. The Supreme Court interpreting the Act stated that "whenever it is shown that a labourer is made to provide forced labour, the Court would raise a presumption that he is, required to do so in consideration of an advance or other economic consideration received by him and he is, therefore, a bonded labourer. This presumption may be rebutted by the employer and also by the State Government if it so chooses but unless and until satisfactory material is produced for rebutting this presumption, the Court must proceed on the basis that the labourer is a bonded labourer entitled to the provisions of the Act." Thus, the definition of a bonded labourer which was relying on a bonded debt, namely, an advance obtained or presumed to have been obtained under or in pursuance of the bonded labour system, has been expanded to include a situation of forced labour also. It would be desirable to amend the definition of 'bonded labour system' to provide for the situation of forced labour under social custom with an agreement or a presumed agreement but which may not have an element of bonded debt.

Magnitude and characteristics

8.5 There has been no comprehensive survey to determine the magnitude of bonded labour. However, one can refer to three different estimates available on this. One is the sample survey in 1978-79 conducted under the joint auspices of the Gandhi Peace Foundation (GPF) and the National Labour Institute (NLI) in 10 States of the country which placed the estimated number at 26.17 lakhs. The National Sample Survey Organisation, in their 32nd Round (1977-78), estimated it at 3.45 lakhs in 16 States. The State Governments, 9 in number, gave an estimate of about 1.21 lakhs in March 1980 and this had gone upto approximately 2.46 lakhs by Mach 1990 for 12 States. The details are in Annexure A. It is, however, noted that the definition adopted by the National Sample Survey Organisition was restrictive, not encompassing fully the definition in the Act, though it covered traditional and non-traditional areas. The GPF / NLI survey, though supposed to have used the definition in the Act, covered only the traditional areas, was based only on a sample survey of 1000 villages in 10 States, which has left out a few districts in the States covered and also assumes that the information from the villages surveyed is representative of the district and the State to give a sound basis for generalisation. Considering the limitations, the estimates and the districtwise information may, at best, be considered as indicative of the situation and the characteristics of bonded labour rather than of the order of magnitudes.

8.6 Certain qualitative characteristics which have emerged from the sample surveys of GPF / NLI are worth noting. The All India averages indicate that, typically, the bonded labourers belong to Scheduled Castes (61.5%) and Scheduled Tribes (25.1%), are male (97.5%), married (72%), illiterate (90 to 94%) and around 30 years of age, the bulk belonging to 21 to 40 years. Most of the bonded labour households are landless (63%), mostly do agricultural work (80%) and usually do not own animals either big ones such as cow, buffalows, bullocks etc. (66%) or small ones such as goats, pigs etc. (most have none). While the majority possess some homestead land and this usually constitutes their sole asset, about 12 percent do not have even huts.

8.7 In regard to employers, 89% are agriculturists, typically belonging to upper castes, are rich and usually possess a number of big animals, in addition to land. However, few use modern machinery (tractors and pump sets) in cultivation. (However it has been noted in Haryana in a recent study that even in capitalist agriculture, the bonded labour system prevails). The average number of bonded labourers per employer or creditor was about 3. The loans which the labourers have taken and has led to bondage came to Rs. 530 on an average while the interest thereon varied from nil to as much as 500 per cent. The average period for which those interviewed have been under bondage is 6.4 years. The reasons for which they borrow are mainly of two kinds—

(a) domestic needs such as of food, clothing, medicine and

(b) social ceremonies associated with marriages, births and deaths.

Other studies have also shown that the agricultural labourer households are financially in deficit chronically and have to resort to loans even for minimum subsistence level of consumption and such labourers whose earnings are insufficient to sustain them enter the ranks of the bonded labourers According to the Rural Labour Enquiry Reports, the proportion of indebted rural labour and agricultural labour households to the total were 50.5% and 52.3% respectively in 1977-78. The position remained more or less the same in 1983, but came down to 42.8% and 43% in 1987-88. For the indebted agricultural households the average debt has gone up from Rs. 660 in 1977-78 to Rs. 1952 in 1987-88. The average debt per household consumption, marriages and other ceremonies as a proportion of total average debt stood at 66.7%, 73.6% and 61.7% respectively for All, SC and ST households in 1977-78, but has come down in 1987-88 to 48.2%, 52.9% and 41.3% respectively. In the same period, while institutional sources of debt have increased and the proportion from moneylenders has decreased, the proportion from employers has increased for All, SC and ST households.

8.8 The wages which the bonded labourers received for the work done under bondage was also very meagre at about Rs. 60 per month, of which they got only Rs. 40 per month after deductions by the creditor. The labourers were not able to supplement their income by additional alternative employment, as in 92 per cent of the cases they were not allowed to seek alternative employment in the on-season and in 75% of the cases they could not seek work even in the off-season. The bonded labourers surveyed were found to be considerably malnourished, anaemic and underweight, with a high incidence of disease especially among the children. While, under the traditionally customary bondage, the relationship has been of the patron-client type with some obligation on the part of the landlord to help the labourers in times of extreme need under the system of 'modern' bondage, the relationship is impersonal, based on straight economic exploitations. The survey also noted noticeable differences between States regarding amounts of loans taken, period of bondage, age composition etc. reflecting the historical bases in different regions.

8.9 In some of the non-agricultural activities like building and construction, brick kilns, stone quarries etc. where bonded labour has been noticed, the employers or contractors or the agents advance money to workers and for this consideration make them work at less than minimum wages and the workers are attached to them for a specified period. Many such workers are also migrant labour, made resident on the production or construction site. Usurious rates of interest are also charged. In the carpet industry, there is a multi-level creditor / debtor relationship and a peculiar complex of self-employment and wage labour as well as exploitation and bondage of child labour. The areas with reportedly high incidence of bonded labour in agriculture may be seen in Annexure B. Some of the non-agricultural occupations showing incidence of bonded labour but not adequately covered by surveys, studies etc. are also indicated in Annexure B.

Causative factors and Survey

8.10 The bonded labour phenomenon in agriculture is the result of a classic convergence of caste and class disabilities aggravated by the seasonal nature of employment in agriculture. The abject poverty compels them to take resorts to loans for subsistence and social customs, usually from the landlord, who also desires captive labour. The kernel of bondedness lies in unrepayable debt and loss of freedom to seek alternate employment through the market process. He works on daily wages paid well below the minimum wages and cannot get out of the vicious circle. This is most pronounced in the feudalistic areas, though, in the recent past, there have been indications of erosion of feudal structure of exploitation and discrimination through agrarian movement as well as by release of market forces generating demand for casual labour on account of greater diversification in the rural economy and requirements of non-agricultural occupations and rural industies. The mere adoption of a capitalist mode of development in agriculture is not necessarily an insurance against bondedness or guarantee of a free labour market. A solution in the the long run for this problem, which also has social and customary origins, would involve as well as change in the power structure in rural areas. The situation of surplus labour, unemployment / underemployment, inequitable distribution of land and assets, low wages, distress migration, social customs etc., with the phenomenon of small and marginal peasants steadily becoming landless labourers generate an environment which can perpetuate the system of bonded labour. It is, therefore, necessary to conduct a country-wide census of bonded labourers and, in the districts with concentrations of bonded labourers, sample surveys could be done periodically once in five years to get more details on the infrastructure in the district and on the characteristics of bonded labour to prepare schemes and to monitor the situation from time to time. For the purpose of identification and census / survey, a Central data collecting organisation may be entrusted with the job with the assistance and involvement of autonomous and non-government voluntary organisations. Sample surveys can be got done through the National Sample Survey Organisation.

8.11 In order to eliminate bondage, the focus of attention has not only to be on the steps required for the identification and rehabilitation of bonded labour but also an the causative factors which lead to bondage and need to be tackled in the long run to remove the conditions that give birth to bonded labour and to prevent relapse into bondage. A cursory analysis of some of the characteristics of the districts in which incidence of bonded labour is reported to be high indicates that generally, these districts have a proportion of Scheduled Castes and / or Scheduled Tribes higher than the State average along with one or more of the following: (a) percentage of agricultural labour to total rural workers higher than than the State average (b) percentage of irrigated area and agricultural productivity lower than the State average. (c) Wages also tend to be lower than the State average. Thus, economic backwardness, poor infrastructure and low employment generally characterise these areas. In the few districts which do not exhibit these characteristics, the reasons are to be found elsewhere, like migrant labour, acute poverty with incidence of high inequality etc. In the wider perspective, an integrated package of long term measures requires to be taken to resolve the problem. These include:

(a) After detailed district level or block level information on incidence of bondage is ascertained, the level of development and gaps in infrastructure in areas of highest concentration of bondage should be identified. The focus of development should be on increasing Plan outlays for improvement of infrastructure like irrigation, power, transport and communication etc. in such districts to raise the demand for labour. Other support systems which should also be strengthened are institutional credit, provision of raw materials, marketing and support services, training in skills, etc. All these would support employment generation and self-employment.

(b) The Employment Guarantee Scheme recommended elsewhere in the report should be started in such areas, and priority in employment should be given to released bonded labourers. Such a scheme should be an important element of rehabilitation.

(c) Other measures to increase employment opportunities both in agriculture and off-farm should be taken and payment of minimum wages ensured.

(d) In distribution of ceiling surplus land, priority should be given to freed bonded labourers and even land can be purchased by Government for allotment to them.

(e) There should be a convergence of antipoverty, employment generation / guarantee and welfare schemes for freed bonded labour, along with provision of minimum needs, social security, insurance schemes etc.

f) Provision for one time consumption credit also should be made for them on the lines recommended elsewhere.

(g) In the agricultural sector, bondedness is a direct consequence of the living and working conditions of agricultural labour, which requires attention also through legislative and other measures detailed elsewhere.

(h) Displacement of tribals due to development projects and deprival of their traditional rights in forests have led to loss of their source of livelihood, and many are forced to seek employment away from their natural economic habitat and occasionally land themselves in bondage. These aspects are dealt with in a separate chapter.

Identification, Release and Prosecution

8.12 Some of the problems encountered in identification relate to:—

(a) due to fear of reprisals and loss of employment, the bonded labourers, mostly SCs and and STs, do not come forward by themselves;

(b) the aggressive environment created by the masters for maintenance or restoration of status quo,

(c) lack of alternate employment opportunities;

(d) inactivity of Vigilance Committees and paucity of voluntary agencies to identify bonded labour and to prevent cases of fraudulent identification and of corruption resulting in misuse of rehabilitation grants.

8.13 Among the important elements in the identification and release of bonded labour are generation of awareness, confidence building and psychological rehabilitation. The rural labour camps conducted by the National Labour Institute in different parts of the country have been a powerful medium for this purpose and have achieved substantial success. Such camps should be organised on a countrywide basis by the National Labour Institute, the National Institute of Rural Development, Workers' Training Institutions as well as willing and suitable voluntary agencies. Training and workshops should also be organised for the functionaries involved in identification and rehabilitation of bonded labour to motivate them and to generate the required attitude and empathy. The awareness camps for bonded labourers should also be attended by such functionaries so that a mutual understanding can be established and the barriers broken down. The camps should be periodic and not a once for all affairs.

8.14 In order to generate confidence in the system, an effective enforcement of the Act is required. There have been reports of inordinate time lags between identification, release and rehabilitation and there have been very few prosecutions against persons who keep labour in bondage. The process of identification, release and criminal prosecution of the employer of bonded labour should, as far as possible, be simultaneous activities. Free legal aid should also be provided by the State if required by the bonded labourer. It is desirable that the release proceedings are conducted in the same village and in open court so that the bonded labourer becomes aware of the fact and consequences of the release and his oppressor also becomes aware of the legal consequences. Persons who indulge in fraudulently showing bonded labourers to mis-appropriate rehabilitation grants should be made punishable under the Act along with the recovery of fine upto the grant given. Summary Trial of offences should be done within a time limit of four weeks and there should be no appeal or revision from the proceedings or judgments of the Executive Magistrate except before the High Court. The jurisdiction of the Judicial Magistrate should be barred. A minimum fine of Rs. 2000 should be provided in Sections 16, 17, 18, and 19 of the Act. There should also be provision made in the Act for compensation and recovery of damages from the keeper of the bonded labourer, proportionate to the length of bondage. Besides protecting a homestead and other residential premises of the bonded labourer, similar protection should be given for the agricultural lands being cultivated by the bonded labourer.

Vigilance Committees

8.15 The Vigilance Committees contemplated under the Act at the district and sub-divisional levels are to include persons belonging to SCs and STs, social workers, persons to represent official and non-official agencies with rural development and persons to represent financial and credit institutions. The Vigilance Committees are expected to give advise about measures to be taken to implement the provisions of the Act, provide for economic and social rehabilitation including organising flow of adequate credit to free bonded labourers, make a survey and monitor offences under the Act as well as defend any suit instituted against a freed bonded labourer. While a few Vigilance Committees have been doing good work, most of them have not been constituted or reconstituted or have not been active as meetings are not held regularly. There has been no monitoring of the functioning of these committees and since the last couple of years fresh identification of bonded labourers has almost stopped. Some do not have activists or representatives of Non-Governmental Organisations (NGOs). It is necessary to activate the Vigilance Committees with their composition as prescribed. The released bonded labourers could be encouraged to form village level associations and elect a leader and these leaders should form the block level committees. The elected Chairman of the committees should be a member of the Sub-Divisional Level Committee and two such Chairmen made members at the District Level Vigilance Committee also. The meetings of village level association and the block level committee should be attended by officers or the Revenue, Police, Labour, Agriculture and Development Departments at the appropriate level. The Vigilance Committees should meet at least once in two months. The Committees should help in detection of fresh cases, monitor prompt release and ensure effective rehabilitation through close follow up. The Committees should also act as catalytic agents for creating mass awareness and for organising the bonded labourers. The Vigilance Committees should also be authorised to prosecute offenders and the offences under the Act should be cognizable and non-bailable.

Rehabilitation

8.16 Rehabilitation of the freed bonded labourer is even more important than the release. If such a labourer was to lose his employment or to be sent back to his home State if he is a migrant, he would lose his source of livelihood and the ‘remedy’ would be worse than the ‘disease’. Rehabilitation must immediately follow the release, which should consist of immediate financial assistance for him and for his family to subsist, assistance to start a new life leading to economic independence and measures to combat social discrimination. The Centrally Sponsored Scheme for Rehabilitation of Bonded Labour contemplates a grant upto Rs. 6250/- per head, shared on a 50 : 50 basis by Central and State Governments. Out of this Rs. 500/- is meant to be given in kind for consumption purposes soon after the release to enable him to tide over the period till his rehabilitation. A statement showing the number of bonded labourers identified and rehabilitated as on 31-3-90 is in Annexure C. It is seen that still a large number of identified bonded laboures are yet to be rehabilitated. A new scheme of grants-in-aid to voluntary agencies in the identification and rehabilitation of bonded labourers is implemented through the Council for Advancement of People's Action and Rural Technology (CAPART) but it is still to take off. The schemes for rehabilitation are based on the following guidelines:

(a) Land based schemes consist of identification and allotment of surplus land, preferably in villages where they reside and provision of facilities such as plough, draught animals, implements, input packages (credit, seed, fertilizers) and land reclamation if needed.

(b) Animal husbandry based schemes provide for distribution of livestock like milch cattle, goats, pigs etc. along with marketing facilities, veterinary services etc. to supplement incomes.

(c) Skill / craft based schemes envisage providing inputs of raw materials, capital, sheds and implements, ensuring marketing channels as also loans at preferential rates of interest. Further guidelines were also issued that these schemes should be integrated with the other anti-poverty programmes, IRDP, NREP, RLEGP,TRYSEM, Sub-Component Plan for SCs / STs etc. so that a sufficient grant is available for effective and purposeful rehabilitation. House constructed under NREP and RLEGP is also to be made available to the released bonded labourer free of cost.

8.17 While studies have shown a number of inadequacies which will be outlined below, there have also been a few innovative attempts. In Andhra Pradesh, available culturable Government land and ceiling surplus land have been granted at par with landless agricultural labourers and Government has also drafted a unique scheme of purchasing private land, developing it for agricultural purposes and even sinking wells on them out of Sub-Component Plan funds, for allotment to released bonded labourers. In Bihar, besides providing a social security pension immediately after identification, an integrated development scheme including land grant has been devised, besides a matching additional grant of Rs. 6250/- by the State Government. An innovative scheme for rehabilitation of child bonded labourers released from the carpet industry of U.P. has been formulated in Palamau district of Bihar and this includes residential schools where, besides providing education with free text books, school uniforms, mid-day meals etc., training is also given in carpet weaving. In Karnataka, the rehabilitation programme was coincidentally simultaneous with the land reforms implementation. The Karnataka Land Reforms Act, which generally prohibits creations of tenancy and confers occupancy rights over tenants, provides that the definition of a tenant includes a 'deemed tenant', i.e., a person whose name did not appear under any of the records but who was found, after local enquiry, to have been cultivating someone else's land. Under this, the bonded agricultural labourer became a tenant and subsequently got occupancy rights, thus releasing them also from bondage. In Kerala, a land based rehabilitation project has been launched integrating the development schemes of the Departments of Rural Development, Primary and Adult Education and Social Welfare. In Rajasthan, non-land based schemes have been attempted. In Tamilnadu, a voluntary organisation has implemented a rehabilitation package including agriculture, sericulture, tree-culture, animal husbandry, horticulture and housing. In U.P., activists and NGOs have taken initiatives in getting land pattas issued to released bonded labourers and also in getting women released from brothels in plains where they had been sent to earn, by hill area families under debt bondage. In Orissa, age relaxation upto 40 years to release bonded labourers for employment has been given for Group 'C' and 'D' posts under the State Government. But in a large majority of cases, various shortcomings have been found which include:

(i) Considerable time lag between release and rehabilitation and poor follow-up action on rehabilitation leading to misery and relapse into bondage.

(ii) Non-integration of the rehabilitation schemes with other anti-poverty and welfare schemes.

(iii) The land-based schemes, though having potential, have not succeeded due to either poor quality of land or lack of planning, development of land and inputs and infrastructure.

(iv) In the animal husbandry based schemes, the shortcomings relate to non-availability of good veterinary services, lack of provision of fodder and lack of proper marketing linkages.

(v) In the skill or craft based schemes, the lacunae observed were: lack of choice given to the beneficiaries, poor planning, inadequate training and non-provision of backward and forward linkages by way of input materials and marketing and lack of integration with other schemes in the areas.

(vi) There have been cases of corruption through fraudulent identification as well as leakage of rehabilitation grants. The problems of migrant bonded labourers were found to be most acute as there was no rehabilitation attempt either in the State in which they work or in the State of origin. There was no awareness also among the bonded labourers about various schemes.

8.18 It is necessary to improve the rehabilitation measures qualitatively. The shortcomings outlined earlier require to be rectified and in particular: —

(i) The scheme of rehabilitation should be chosen in consultation with the beneficiary who should be given all information about different schemes to enable him to select in accordance with his willingness, interest and aptitude.

(ii) The scheme should be well planned with all the components like training, inputs, services and marketing tied up. The infrastructure that is required should be identified and provided where it is inadequate or absent.

(iii) In the case of land based schemes, the lands should be of reasonably good quality. Statutory provisions should be made to give priority to released bonded labourers in allotment of Government land and ceiling surplus land and pattas given in a mass camp. States may consider purchasing culturable land for allotment. Statutory provision may also be made to see that the lands actually tilled by the bonded labourers are assigned in their name after local enquiry even though their names may not appear as cultivators in the land records. Land development and irrigation facilities, if required, as well as the provision for inputs, training, etc. should be organised by a conscious convergence of various anti-poverty programmes and other schemes, including Central assistance.

(iv) Centrally Sponsored Scheme of Rehabilitation of Bonded Labour should be assisted 100% by the Centre. The rehabilitation grant should be given in full, as now it is permissible to give even less than the admissible maximum amount. The maximum amount of Rs. 6250 /- (increased from earlier Rs. 4000 /- w.e.f. 1-2-86) requires to be enhanced to Rs. 10,000 /- which can also take care of consumption requirements for one year. The release of funds should be streamlined to make it quick and availability made timely.

(v) Since the predominant cause for lapsing into bondage is debts taken largely for consumption needs, the jurisdiction banks should be directed to provide consumption loans to the released bonded labourers to the extent of Rs. 1000 /- per year under the differential rates of interest schemes for two years after his release or in the alternative, as has been adopted by some State Governments, until a stable employment is provided or a rehabilitation scheme becomes viable, provision should be made for a monthly maintenance grant of at least Rs. 200 /- per month out of the enhanced rehabilitation grant.

(vi) Legal provisions should be made for restoration of lands belonging to the bonded laborers but usurped by moneylenders and bigger landowners on account of loans given at exorbitant rates of interest. Rehabilitation grant should preferably be made in the form of assets and some cash in the presence of the Panchayat and one or two Government officers, better the SDO or the BDO and in an open meeting / mela after due publicity and the list should also be put up on the notice board of the Panchayat. In the case of bonded labourers working in quarries, brick kilns, etc., there should be provision to take over these assets and entrust them to the bonded labourers through the formation of associations or cooperative societies.

(vii) Panchayat Raj Institutions should be actively involved in the rehabilitations efforts. Adequate delegation of powers should also be done for enabling quick sanctions. Officials / non-officials found guilty of corruption and leakage of rehabilitation funds should be made liable for criminal prosecution.

(viii) Rehabilitation of bonded labour in agriculture is best secured through settling them on land. In this context, group rehabilitation projects under a cooperative set up or as a society or even a loose group should be encouraged, with the beneficiaries managing the project after proper training. A similar approach to rehabilitation on a collective basis in small groups should be tried for animal husbandry based as well as skill / craft based schemes also, as these would prove economical, can take advantage of complementaries between schemes as well as among persons and will also help in providing psychological strength. Cooperatives of freed bonded labourers may be formed for running brick kilns, for allotment of fair price shops, for fishing, farming etc. They should also be encouraged to take up animal husbandry, poultry, piggery, etc. The group could also, in due course, establish a savings fund which could be used to help the individuals towards expenditure on social ceremonies.

(ix) Priority should be given to released bonded labourers in employment generation or employment guarantee schemes. In addition, effective enforcement of various labour laws, including the Minimum Wages Act, would also help in improving the incomes.

(x) The organisation of bonded labourers may be recognised as a voluntary agency for implementation of rehabilitation schemes through CAPART.

(xi) The rehabilitation programme should be such as to meet the needs of the whole family, integrating the anti-poverty, agricultural and rural development and basic minimum needs programmes and giving priority to them. Residential schools for the children of the released bonded labourers along with those of other rural labourers should be started with provision for uniforms, text books, etc. also free of cost.

(xii) In order to minimise the need for consumption loans for marriage and death ceremonies, subsidised rations for a specified number of persons may be given and all efforts should be made at reform and reducing wasteful expenditure in such ceremonies. Panchayati Raj and Social Welfare Institutions should take active interest in eliminating such wasteful expenditure. The concept of group marriages should be encouraged under the auspices of Zilla Parishads. Panchayati Raj Institutions should be declared as Registrars of marriages under the Civil Marriages Act. Similarly, some small amount of grant should be advanced by Zilla Parishads or Panchayats for performing funeral rites thereby eliminating the need for taking loan on this account. The public distribution system should be reorinted to meet the needs of agricultural and other vulnerable rural labour, through special ration cards to draw rations at subsidised rates.

(xiii) The rehabilitation of migrant bonded labourers is generally uncertain, delayed and inadequate. It is recommended that 40% of the rehabilitation grant should be provided by the State where they are found and the balance 60% should be provided in the State of origin.

Administrative Action and Legislative Amendments

8.19 Apart from the legislation which specifically concerns bonded labour, there are also other laws under which the keepers of bonded labour can be prosecuted in order to see that justice is done to the bonded labourer. Some of these Acts are the Minimum Wages Act, 1948, Contract Labour (Regulation and Abolition) Act, 1970, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1986 as well as Sections of the Indian Penal Code, viz. Section 374 (Forced Labour) and Section 367 (Kidnap and Wrongful Confinement), besides the laws against the sexual exploitation. Effective implementation of these would no doubt go a long way in alleviating the oppression and social deprivation which a bonded labourer is forced to endure. The proceedings under the Bonded Labour System (Abolition) Act, 1976 in respect of recovery of wage arrears should be converted into one under the Minimum Wages Act and the Sub-Divisional Magistrate who releases bonded labour should be designated as the Claim Authority under Section 20 of the Minimum Wages Act, simultaneously with prosecution of the keeper. The wage arrears could be paid by the State in the first instance and recovered from the ex-master as arrears of land revenue. Coercion or violence on a freed bonded labourer should be met with deterrent penal and criminal action. The Bonded Labour System (Abolition) Act, 1976 itself has certain lacunae which require to be removed. Some of the detailed amendments in this regard are proposed in Annexure 'D'.

National Authority

8.20 In spite of a large number of laws available, the bonded labour system cannot be effectively combated without active social action. In fact, considerable amount of work in release of bonded labour has been done by activist organisations like Bandhua Mukti Morcha in various States. Shram Jeevi Sangathana and Vidhayak Parishad in Maharashtra, Chattisgarh Krishak Mazdoor Sangh in Madhya Pradesh and similar organisations elsewhere. The Commissioner for Scheduled Castes and Scheduled Tribes has pointed out in his Reports the incidence in different parts of the country. The National Labour Institute has helped through the Rural Labour Camps, particularly in Bihar and Orissa. The Courts, including the Supreme Court of India, have appointed socio-legal commissions of inquiry to identify bonded labourers and passed many orders for their release and rehabilitation. But still the central weaknesses in the functioning of the implementation structures under the Act require to be remedied. State Governments have been found occasionally to be reluctant to acknowledge the existence of bonded labour and take effective action for their release. Bonded labourers among migrant workmen are not looked after either by the recipient State or the originating State. Funds available are also not properly utilised. It is, therefore, recommended that the existing implementation structure must be augmented by the creation of a network of agencies at the national and State levels as nodal agencies to supervise and coordinate the identification, release and rehabilitation of bonded labourers, make the administration more responsive and the Vigilance Committees accountable. A National Authority or National Commission on Bonded Labour should be constituted by incorporating suitable provisions in the Bonded Labour System (Abolition) Act. It should be on the lines of the National Commission for Scheduled Castes and Scheduled Tribes and have a Chairperson and a Member-Secretary chosen from persons of eminence, with judicial, administrative or academic experience or with a proven record of commitment and work among the rural poor and bonded labour. The Members not exceeding eight, should include representatives from among noted social and human rights activists with proven record of work in participatory organisations of rural poor, eminent citizens including retired judges, leading social scientists, experienced administrators and key officials as well as leaders of the depressed classes (SC, ST, etc.). At the State level, there should be Commissioners for Bonded Labour working under the direction of the National Authority. These authorities should be charged with the duty and given powers—

(a) to oversee and coordinate the implementation of the Act;

(b) to identify, through a national mapping, the incidence of bonded labour;

(c) to raise the required resources for the release and rehabilitation of bonded labourers and make regular field tours / inspections;

(d) to issue directions for implementation and to direct prosecutions or initiation of judicial and other proceedings.

8.21 This National Authority should be autonomous, with a status equivalent to the National Commission for Scheduled Castes and Scheduled Tribes. The funds for rehabilitation should be routed through this Authority. It should be entitled to raise contributions from public financial institutions as well as private concerns. It should have powers to create registered societies, cooperative societies and other relevant organisations of bonded labourers. The National Authority should submit an Annual Report to the Parliament and the State Commissioner, a report to the State Legislature. The National Authority should also undertake dissemination of information as well as yearly conferences or workshops of all persons interested.

Consumption Credit

8.22 An important dimension of poverty is dependence of the poor, particularly the landless, on landlords, moneylenders and traders for assistance by way of loans in times of exigencies like natural calamities, death, illness, marriages, etc. as well as to meet consumption needs for subsistence itself. These loans taken on exorbitant rate of interest, become unrepayable and lead to mortgaging one's freedom and to bondage. Subsequent to the legislative measures taken for redemption and scaling down of debts enforced in the period following 1975, an Expert Committee on Consumption Credit (Sivaraman Committee, 1976) went into the consumption credit requirements of those affected by these measures, particularly the small farmers, landless labourers and rural artisans. It proceeded on the assumption that these persons were at subsistence level and required support in the lean season to supplement household and social expenditure, including the needs for food, clothing and ceremonies connected with births, marriages, funerals, etc, and medical expenses, by private borrowings. The Committee estimated the requirement of funds for the landless and very small land holders (below 0.5 acre holdings) at Rs. 170 crores and that for other poor small farmers (0.5 to 5 acres holdings) at further Rs. 250 crores, the latter to be provided through a component of production loans. The Committee stressed the need for easy access to credit for the indigent rural poor to the minimum extent of requirements.

8.23 Pursuant to this, a scheme for Risk Fund Assistance for consumption credit was introduced from 1977-78 to support Commercial Banks, Cooperative Banks and Regional Rural Banks to provide consumption credit to the weaker sections upto Rs. 500 in each case. Weaker sections for this purpose are defined as cultivators with land holdings upto 0.5 acre, whether as owners or tenants, landless labourers, rural artisans and other people of very small means like carpenters, barbers, washermen who form an integral part of the village community. The credit is provided for meeting medical expences, educational expences, expenditure on marriages, births and deaths at the ceiling prescribed by the R.B.I. for different purposes, the aggregate for two or more purposes not exceeding Rs. 500 /- per family. The ceiling for general consumption has been raised from Rs. 75 to Rs. 500 as part of relief measures in areas affected by natural calamities. The rate of interest of these loans is the same as applicable to crop loans (10%). The Risk Fund is utilised to provide assistance to the banks to the extent of 10% of total consumption loans disbursed by them to the target group during the year. The expenditure on the Risk Fund is shared on 50: 50 basis between the Government of India and the State Governments, State Governments contributing initially the entire amount and getting reimbursement from Government of India later. The loans granted by the banks for pure consumption purposes are also eligible for guarantee cover.

8.24 The outstanding consumption loans granted by Scheduled Commercial Banks at the end of 1987 was Rs. 23.34 crores (over 12.47 lack accounts), by Regional Rural Banks as in June 1988 was Rs. 22.41 crores (over 1.18 lack accounts) and by State Cooperative Banks and Central Cooperative Banks together as in June, 1983 at Rs. 74.67 crores. The ceiling limit of Rs. 500/- fixed for 1977-78 has become unrealistic with price escalation. There has been reluctance on the part of the Reserve Bank of India to enhance this since the risk involved is very high as neither they are backed by security nor do they have possibility of income generation; increasing ceilings will worsen the position of recovery of loans of Commercial Banks which is already unsatisfactory; and Risk Funds have not been constituted by many State Governments and even where constituted, the State Governments have not contributed on a regular basis. The adoption of the criterion of eligibility of beneficiaries under the IRDP also for consumption loans has also not been accepted by the Reserve Bank of India. It is a fact, however, that the State Governments have not been vigorously implementing the scheme, as evidenced by the fact that the total disbursement of Government of India share of Risk Fund to the State Government during the five years 1985 to 1990 has been only Rs. 58.26 lakhs.

8.25 The Department of Rural Development has recently permitted provision of consumption loans upto Rs. 500 /- to IRDP beneficiaries, who are not defaulters in repayment of their dues, from out of the interest earnings of the District Rural Development Agencies. Some non-Governmental organisations have been promoting and organising self-help groups for promoting thrift and for collecting small sums periodically to provide a corpus which can be drawn upon for giving small loans in times of need. The Department of Rural Development has provided guidelines to give a matching contribution of upto Rs. 15,000 /- for savings of this type generated by groups of women belonging to families living below the IRDP cut off line.

8.26 The recognition of the reality of the need for consumption credit for the rural labour and providing an access to this on reasonable terms are essential elements for combating the problems of bonded labour. According to the 43rd round of NSS 1987-88, 195 million persons or about 39 million families were below the poverty line. Assuming that about 20% of the families below the poverty line would need consumption credit at Rs. 1,000 /- per family at any time, the total amount required would be about Rs. 800 crores. Unless an effective institutional mechanism is made to provide for this requirement, it will not be possible to eltimate the private moneylending system with high rates of interest and the attendant problems of bondage with low wages, lack of freedom of movement and in employment, etc. We recommended that a line of credit for this purpose be established by organising Revolving Fund through budgetary contributions from the Centre and the States, from the profits of banks and surpluses from NABARD and the Reserve Bank of India. The Risk Fund Scheme also should be vigorously activated with the participation of the State Governments.

CONCLUSIONS AND RECOMMENDATIONS

(1) It would be desirable to amend the definition of 'bonded labour system' to provide for the situation of forced labour under social custom with an agreement or a presumed agreement but which may not have an element of bonded debt.

(2) The situation of surplus labour, unemployment / under-employment, inequitable distribution of land and assets, low wages, distress migration, social customs, etc. with the phenomenon of small and marginal peasants steadily becoming landless labourers generate an environment which can perpetuate the system of bonded labour.

(3) It is necessary to conduct a countrywide census of bonded labourers and in the districts with concentration of bonded labourers sample surveys could be done periodically once in five years to get more details on the infrastructure in the district and on the characteristics of bonded labour.

(4) The focus of development in such identified areas should be on increasing plan outlays for improvement of infrastructure like irrigation, power transport and communications etc. to raise the demand for labour. Institutional credit, provision of raw materials, marketing services, training in skills etc. should be strengthened to support employment generation including self-employment. Poverty alleviation programmes should also be concentrated in such areas.

(5) In order to generate confidence in the system, an effective enforcement of the Act is required. The process of identification, release and criminal prosecution of the employer of bonded labour should as far as possible, be simultaneous activities.

(6) Free legal aid should be provided by the State if required by the bonded labourer.

(7) The release proceedings should be conducted in the same village and in open court so that the bonded labourer becomes aware of the consequences of the release and his oppressor also becomes aware of the legal consequences.

(8) Persons who frequently show bonded labourers to misappropriate rehabilitation grants should be made punishable under the Act alongwith the recovery of fine upto the grant given.

(9) Summary trial of offences should be done within a time limit. The jurisdiction of the Judicial Magistrate should be barred.

(10) A minimum sentence of six months and a minimum fine of Rs. 2000 should be provided in Sections16, 17, 18 and 19 of the Act. There should also be provision made in the Act for compensation and recovery of damages from the keeper of the bonded labourer, proportionate to the length of bondage.

(11) Besides protecting homestead and other residential premises of the bonded labourer, similar protection should

be given for the agricultural lands being cultivated by the bonded labourer.

(12) It is necessary to activate the Vigilance Committees contemplated under the Act at the district and sub-divisional levels with adequate representation. The Vigilance Committees should meet at least once in two months. They should help in detection of fresh cases, monitor prompt release and ensure effective rehabilitation through close follow-up. They should also act as catalytic agents for bonded labourers. The Vigilance Committees should also be authorised to prosecute offenders and the offences under the Act should be cognizable and non-bailable.

(13) It is necessary to improve the rehabilitation measures qualitatively and in this context special attention should, inter-alia, be given to the following:—

(i) The scheme of rehabilitation should be chosen in consultation with the beneficiary and it should be well planned with all the requisite components and infrastructural facilities tied up.

(ii) Statutory provisions should be made to give priority to released bonded labourers in allotment of Government land and Ceiling Surplus land and pattas given in a mass camp.

(iii) Centrally Sponsored Scheme of Rehabilitation of Bonded Labour should be assisted 100% by the Centre. The maximum amount of Rs. 6250 (increased from earlier Rs. 4000 w.e.f. 1-2-86) requires to be enhanced to Rs. 10,000. The rehabilitation grant should preferably be made in the form of assets and some cash in an open meeting / mela after due publicity.

(iv) The jurisdiction banks should be directed to provide consumption loans to the released bonded labourers to the extent of Rs. 1,000 per year under the differential rates of interest schemes for two years after his release or in the alternative, until a stable employment is provided or a rehabilitation scheme becomes viable, provision should be made for a monthly maintenance grant of least Rs. 200 per month out of the enhanced rehabilitation grant.

(v) Legal provisions should be made for restoration of lands belonging to the bonded labourers. In the case of bonded labourers working in quarries, brick-kilns, etc., there should be provision to take over these assets and entrust them bonded labourers through the formation of associations or co-operative societies.

(vi) Panchayati Raj Institutions should be actively involved in the rehabilitation efforts.

(vii) Group rehabilitation projects under a co-operative set up or as a society or even a loose group should be encouraged with the beneficiaries managing the project after proper training.

(viii) Since guaranteed employment is an important element of rehabilitation, priority should be given to released bonded labourers in employment guarantee schemes.

(ix) The organisation of bonded labourers may be recognised as a voluntary agency for implementation of rehabilitation schemes through CAPART.

(x) The rehabilitation programmes should be such as to meet the needs of the whole family, integrating the anti-poverty, agricultural and rural development and basic minimum needs programmes and giving priority to them.

(xi) In order to minimise the need for consumption loans for marriage and death ceremonies etc. the concept of group marriages should be encouraged under the auspices of Zilla Parishads and some small amount of grant should be advanced by the local bodies for performing funeral rites.

(xii) The rehabilitation of migrant bonded labourers is generally uncertain, delayed and inadequate, 40 per cent of the rehabilitation grant should be provided by the State where they are found and the balance 60 per cent should be provided in the State of origin.

(14) The proceeding under the Bonded Labour System (Sbolition) Act, 1976 in respect of recovery of wage, arrears should be converted into the one under the Minimum Wages Act. As recommended elsewhere, there should also be adequate legal provision for redemption of debt and abatement of interest besides rescheduling of installments.

(15) A National Authority or National Commission on Bonded Labour should be constituted by incorporating suitable provisions in the Bonded Labour System (Abolition) Act. It should be on the lines of the National Commission for Scheduled Castes and Scheduled Tribes and have a Chairperson and a Member Secretary chosen from persons of eminence with judicial, administrative or academic experience or with a proven record of commitment and work among the rural poor and bonded labour.

(16) The recognition of the reality of the need for consumption credit for the rural labour and providing an access to this on reasonable terms are essential elements for combating the problems of bonded labour.

Annexe A

SL No.	State	Estimate of Bonded labour		
		As identified and freed By State Govts.as on 30-3-90	As estimated by NSSO (1977-78)	As estimated by Gandhi Peace Foundation (1978-79)
1	2	3	4	5
*1.	Andhra Pradesh	33,954	7,300	3,25,000
2.	Assam	-	4,400	-
3.	Bihar	12,492	1,02,400	1,11,000
4.	Gujarat	64	4,200	1,71,000
5.	Haryana	544	12,900	-
6.	Himachal Pradesh	-	-	-
7.	Jammu & Kashmir -	900	-	
8.	Karnataka	62,938	14,100	1,93,000
9.	Kerala	823	400	-
10.	Madhya Pradesh	12,218	1,16,200	5,00,000
11.	Maharashtra	1,341	4,300	1,00,000
12.	Manipur	-	-	-
13.	Meghalaya	-	-	-
14.	Nagaland	-	-	-
15.	Orissa	49,805	5,400	3,50,000
16.	Punjab	-	4,300	-
17.	Rajasthan	7,174	2.400	67,000
18.	Tamil Nadu	38,024	12,500	2,50,000
19.	Tripura	-	-	-
20.	Uttar Pradesh	26,259	31,700	5,50,000
21.	West Bengal	-	21,600	-
22.	All Union Territories	-	-	-
		2,45,636	3,45,000	26,17,000

*Under clarification. **Source**: Ministry of Labour

Annexe B

STATEMENT SHOWING AREAS (STATES &DISTRICTS) OF THE HIGH INCEDENCE OF BONDED LABOUR IN AGICULTURE

1. Andhra Pradesh	Mehboobnagar, Ranga Reddy, Warangal, Medak,.
2. Bihar	Palamau, West Champaran, Deoghar, Monghyr, Gaya, Muzzaffarpur.
3. Gujarat	Surat.
4. Karnataka	Bangalore, Shimoga, Mysore, Bijapur, Mandya.
5. Madhya Pradesh	Bilaspur, Shahdol, Sarguja, Vidisha, Satna, Raigarh, Raipur, Bastar, Ratlam.
6. Maharashtra	Ahmednagar, Aurangabad, Nanded, Nasik, Thane.
7. Orissa	Balasore, Cuttack, Koraput, Bolangir, Sambalpur, Puri.
8. Rajasthan	Jhalwar and Kota.
9. Tamil Nadu	Kodaikanal, Salem, Periyar, Trichy, Dharmapuri, North Arcot, South Arcot.
10. Uttar Pradesh	Ballia, Hamirpur, Hardoi, Kheri Sitapur, Bijanore, Bareilly, Patha area, Mirzapur, Varanasi, Allahabad, Garhwal area.

NON-AGRICULTURAL OCCUPATIONS WHERE BONDED LABOUR ELEMENTS HAVE BEEN NOTICED BUT HAVE NOT BEEN ADEQUATELY COVERED BY SURVEYS, STUDIES, etc.

1.Stone quarries in different parts of the country, 2. Migrant labourers, 3. Brick kilns , 4.Joginis and Devadasis , 5. Fisherman 6. Building and road construction labour, 7. Forest labour in Orissa, Rajasthan, Madhya Pradesh, Maharashtra, 8. Bidi workers, 9. Carpet weavers, 10. Pottery , 11. Weavers 12. Head Loaders, 13. Child labour in match & fireworks industries, carpet weaving etc.

Annexe C

STATEMENT SHOWING THE BONDED LABOURERS IDENTIFIED AND REHABILITATED AS ON 31-3-90

Sl No	State.	Number of Bonded Labourers (as on 31-3-1990) Identified & Freed	Rehabi-litated	Not available for rehabilitation
1	2	3	4	5
1.	Andhra Pradesh	33954	24269	9685*
2.	Bihar	12492***	11358	1107
3.	Karnataka	62938	53020	8611
4.	Maharashtra	1341	1219	77
5.	Madhya Pradesh	12218	10261	559
6.	Orissa	49805	46181	3347
7.	Rajasthan	7174	7110	12
8.	Tamil Nadu	38024	37547	10
9.	Uttar Pradesh	26259	26155	-
10.	Gujarat	64	64	-
11.	Haryana	544	21**	523
12.	Kerala	823	823	-
TOTAL		**2,45,636**	**2,18,028**	**23,931**

Note: The above data have been compiled on the basis of the information available and as given by the representation of the State Governments in the meeting held on 23-3-90.

* In the absence of information from the State Government and their assertion that the bonded labourers are not available for rehabilitation, the difference between identification and rehabilitation has been treated as not available for rehabilitation.

** All other identified bonded labourers have been repatriated for rehabilitation to the States of their origin and are included as not available for rehabilitation.

*** Do not include 2464 bonded labourers required to be rehabilitated in pursuance of Supreme Court directive. The rehabilitation of these is required to be planned by the State Government in a phased manner in consultation with the Santhal Pargana Antodya Ashram.

Source: Ministry of Labour

Annexe D

Recommendations for Changes in the Bonded Labour system (Abolition) Act, 1976

	Existing	Proposed
Chapter I **Section 2** **Definitions**	f) “bonded labourer” means a labourer who incurs, or has, or is presumed to incurred, a bonded debt	(f) “bonded labourer” means labourer who is compelled to render labour under the bonded labour system
	(g) “bonded labour system” means the system of forced labour under which labour under which a debtor enters, or has, or is presumed to have entered into an agreement with the creditor to the effect that,	(g) “bonded labour system” means any system of forced labour under which debtor or any person-
	(i) in consideration of an advance obtained by him or by any of his lineal ascendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or	(i) in consideration of an advance obtained by him or by any of his lineal ascendants (whether or not such advance is evidenced by any document) and consideration of the interest, if any, due on such advance, or
	(ii) in pursuance of any customary, or social obligation, or	(ii) in pursuance of any customary or social obligation, or

	(iii) in pursuance of an obligation devolving on him by succession, or	(iii) in pursuance of an obligation devolving on him by succession,
	(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or	(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or
	(v) by reason of his birth in any particular caste or community,- he would-	(v) by reason of his birth in any particular caste or community,- is required to—
	(1) render, by himself or through any member of his family, or any person dependant on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an, unspecified period, either without wages or for nominal wages, or	(1) render, by himself or through any member of his family, or any person dependant on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages, or for nominal wages. or
	(2) forfeit the freedom of employment or other means of livelihood for a specified period or for unspecified period, or	(2) forfeit the freedom of employmentor other means of livelihood for aspecified period or for unspecified period, or
	(3) forfeit the right to move freely throughout the territory of India, or	(3) forfeit the right to move freely throughout the territory of India, or
	4) forfeit the right to appropriate or sell at market value any of his	(4) forfeit the right to appropriate or sell at market value any of his

	property or product of his labour or the labour of a member of his family or any person dependent on him,	property or product of his labouror the labour of a member of his family or any person dependent on him,
	and includes the system of forced, or partly forced labour under which a surety for a debtor enters, or has or is presumed to have entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;	and includes the system of forced or partly forced labour under which a surety for a debtor enters or has or is presumed to have entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, hewould render the bonded labour on behalf of the debtor;
	Explanation: For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970) or an Inter-State Migrant workman as defined in clause (e)	**Explanation:** For the removal of doubts, it is hereby declared that any system of forced or partly forced labour under which any workman as defined under any law for the time being in force or under any agreement or contract is required to render labour or services in circumsta- nces of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses

	of sub-section (1) section (2) of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is, 'bonded labour system', within the meaning of this clause.	(2) to (4), is 'bonded labour system' within the meaning of this clause.
Chapter III Title	Extinguishments of liability to repay bonded debt	Extinguishments of every obligation under the bonded labour system including the liability to repay bonded debt.
Sections 6,7 and 9	For the words 'liability to repay bonded debt' wherever they occur	substitute "every obligation under the bonded labour system including the liability to repay bonded debt"
Sections 6(5)	Where .....possession of any property ....was forcibly taken over by any creditor for the recovery of any bonded debt.........	Where...possession by any property..... was forcibly taken over by any creditor or any other person for enforcement or any obligation under the bonded labour system including the

		recovery of any bonded debt…….
Sections 6(6)	If restoration of possession of any property referred to in sub-section (4) or sub-section (5) is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of possession………. [Presently the prescribed time is ninety days from the date the rules came into force, namely 28th February, 1976]	If restoration of possession…………the aggrieved person may at any time thereafter apply to the prescribed authority………
Sections 6(6) and 6(7)	For the word 'creditor' wherever it occurs	substitute 'creditor or such other person'
Section 7(1) Property of bonded labourers to be freed from mortgage etc.	For the word 'creditor' wherever it occurs	substitute 'obligation under the bonded labour system including bonded debt'
Sections 8(1) and 8(2) Protection from eviction.	For the words 'any homestead or residential premises' wherever they occur	substitute 'any homestead or residential premises or land'. Also, provide for protection from eviction from assets on which the bonded labourers are employed for restoration of

		employment and, if necessary, for acquiring such property or assets by the Executive Magistrates in order to vest the ownership with the erstwhile bonded labourers [for stone quarries, brick kilns, beedi units, weaving units etc. owned by keeper of bonded labourers] New provision enabling the District Magistrate or Sub-Divisional Magistrate to restore back the property owned by or vested in a bonded labourer but illegally transferred to the creditor or any other person, after he is freed and discharged from his obligation to render forced labour. Such transfers should be made punishable under the Act.
Chapter IV Implementing Authorities		A new provision to impose a penalty on officials who deliberately, knowingly, voluntarilyy or otherwise, fail to enforce the provisions of the Act (in order to make them accountable administratively, rewards

		or incentives for sincere and committed officials for positive performance should be given. Periodic training and orientation courses should be organised to impart necessary skill and sensibility). This may be on the lines of Section 4 of the Atrocities Act, which makes it a punishable offence to neglect the duties imposed upon a public servant by law.
Chapter V Vigilance Committees		(a) Delegation of powers for constituting Vigilance Committees, (b) provision for continuation of tenure of members (beyond two years) until reconstitution, (e) inclusion of two released bonded labourers, representatives of Panchayati Raj Institutions as well as senior police officers on the Vigilance Commitees, (d) functions enumerated in Section 14 to be strengthened to make them more meaningful, including

		mandatory involvement of Vigilance Committees in the rehabilitation of freed bonded labourers and fixing periodicity of meetings to be bi-monthly at least, (e) Empowerment of Vigilance Committees in identification of bonded labourers, to prosecute offenders (under Ss. 16, 17, 18, 19 and 20 of the Act), make periodic surveys regarding incidence and send periodic reports.
Section 15 Burden of Proof.	This Section of this chapter has given rise the doubts as to whether it would be applicable for trail of offences under Section 21 according to Cr.P.C.	It is desirable to reword Section and shift it to Chapter VII-Miscellaneous, in order to govern all chapters and to make it applicable not withstanding anything contained in any other law for the time being in force.
Chapter IV Offences and Procedure for trial Sections 16 & 18	For the words 'bonded labour' wherever they occur	Substitute 'bonded labour or any other system of forced labour'.

Section 21(2)	An offence under this Act may be tried summarily by a Magistrate with the powers of a Judicial Magistrate	Only Executive Magistrates conferred with the powers of a Judicial Magistrate should be entrusted with trials under this Act (to the exclusion of Judicial Magistrates) and all prosecutions under this Act must be tried summarily only, with a time limit of four weeks fixed for the trial. The sentencing power of the Executive Magistrate in such summary trial of convictors should be enhanced, not withstanding anything to the contrary in Criminal Procedure Code, Making Section 360 of CrPC inapplicable to the cases under this Act.
Section 22	Every offence under this Act shall be cognizable and non-bailable.	Every offence under this Act shall be cognizable and non-bailable. It should also provide that no person shall be eligible for anticipatory bail.
Section 17		Bring over the offences and penalties under Section 17. [These relate to a creditor accepting payments against a bonded debt which has been extinguishedor to

		advancing a bonded debt].
Section 18	For the words 'at the rate of rupees five per Day'	Substitute 'at twice the difference between the prescribed minimum wage and the wages actually received'
Sections 16, 17, 18 and 19	The penalties provides for imprisonment upto three years and fine upto Rs. 2000, but in many cases of conviction under the Act, only fine is imposed, without imprisonment.	To make the punishment more deterrent, substitute the words 'imprisonment for a term' wherever they occur by 'a minimum imprison ment of six months, which may extend to five years and also with a minimum fine of two thousand rupees.'
	No provision	Faking bonded labour should be made punishable with a fine of Rs.5,000 or the rehabilitation grant given, whichever is more, and imprisonment of upto one year.

2

Study Group on Bonded Labour

Chairman: B.N. Yugandhar
(List of Experts at Annexure)

Conducted by
Lal Bahabur Shastri National Academy of Administration,
Mussoorie
For
National Commission on Rural Labour
April 1991

Section L: Volume II

Report of the National Commission on Rural Labour

Government of India, Ministry of Labour,
New Delhi-1991

LIST OF EXPERTS ON BONDED LABOUR

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2. Swami Agniwesh, Bonded Labour Liberation Front, 7-Jantar Mantar Road, NEW DELHI.
3. Shri Walter Fernandes, Indian Social Institute, 10, Institutional Area, Lodhi Road, NEW DELHI.
4. Shri Baharat Dorga, NFS-India, D-7 Raksha Kunj Psychic Vihar, NEW DELHI.
5. Shri S.R. Sankaran, Secretary, Department of Rural Development, Ministry of Agriculture, Krishi Bhawan, NEW DELHI.
6. Shri K.B. Saxena, Joint Secretary to the Government of India, Department of Rural Development, Block No. 11, 6th Floor, CGO Complex, Lodi Road, NEW DELHI.
7. Dr. B.D. Sharma, Commissioner for SC & STs, West Block No.1, Wing 7, (1st floor), R.K. Puram, NEW DELHI.
8. Shri Laximidhar Mishra, Joint Secretary to the GOI, Min. of Human Resources Development, Room No. 109, Shastri Bhawan 'C' Wing, NEW DELHI.
9. Dr. Mahaveer Jain, National Labour Institute, Sector 24, Noida, GHAZIABAD
10. Dr. R.K. Tiwari, Indian Institute of Public Administration, Indraprashtha Estate, Ring road, NEW DELHI.
11. Ms. Manjari Dingwaney, Advocate, B-4/140, Safdarjung Enclave, NEW DELHI.
12. Mr. P.s. Krishnan, Secretary (Rtd), Social welfare, Govt. of India.

13. P.N. Lakhoti, Advocate, Supreme Court Of India.

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A SUMMARY OF THE REPORT

1. INTRODUCTION

1.1 The system of Bonded labour in our country is rather ancient. Under the previous administrations namely before Independence, the rulers made some attempts to encourage as well as to curb this practice. Although an old method of exploitation of rural masses, the topic of the abolition of the system of bonded labour received by and large only passing reference in books devoted to the analysis of the agrarian relations. It was only after securing Independence in 1947 that the Parliament and the Government of India took interest in the matter. The Constitution of India, in Part III relating to Fundamental Rights, has specifically provided Article 23 prohibiting traffic in human beings and begar and other similar forms of forced labour in the country (Right against Exploitation).

1.2 Even though the Constitution of India was adopted and given to the People of India on January 26, 1950, there was no specific law made to banish the system of bonded labour for as long as 25 years. It was only in the year 1975 that the President of India promulgated the Bonded Labour System (Abolition) Ordinance. This Ordinance was replaced by the Bonded Labour System (Abolition) Act in 1976. This Act provided for abolition of the system of Bonded Labour, freed unilaterally all the bonded labourers from bondage and from all the manifested aspects of bondage and made the practice of bondage an offence punishable by law. Two years after the Act was brought into force, in 1978-79, the Government of India formulated a Centrally Sponsored Scheme for rehabilitation of the released bonded labourers.

1.3 Though the Ordinance / Act abolishing the system of bonded labour and also the Centrally Sponsored Scheme for rehabilitation of released bonded labourers were all launched by the Union Government, yet the responsibility of implementing the law and the scheme remained with the State Governments. A total of 2,42,618 bonded labourers were identified as on 31-3-89 in 12 states namely Andhra Pradesh (33,954), Bihar (12,388), Gujarat (64), Harayana (477), Karnataka (62,689), Kerala (823), Madhya Pradesh (10,895), Maharashtra (1,331), Orissa (48,750), Rajasthan (7,127), Tamil Nadu (37,965), and Uttar Pradesh (26,155). However, as against these estimates a very large number of bonded labourers were estimated in different parts of the country by the Gandhi Peace Foundation through their sample survey (1979-80). The GPF estimation was 26,17,000 in the 10 states (the aforesaid 12 states less Haryana and Kerala). Besides the State Governments' Survey and the GPF survey there have been other macro and localised surveys of bonded labour in different parts of the country.

1.4 Under the Centrally Sponsored Scheme for Rehabilitation of the Released Bonded Labourers, it was provided to give economic assets for up to Rs. 4000 to each released bonded labourer. This limit was enhanced to Rs.6,250 with effect from February 1, 1986. The expenditure under the scheme is to be equally shared between the Central Government and the State Government which rehabilitates the bonded labourer. The total amount of money released by the Central Government to the State Governments under this scheme has been Rs. 3130.38 lakh from 1978-79 up to 1989-90.

1.5 A large number of activists and Non-Governmental Organisations have been taking active participation not only in the identification and release of bonded labourers in different parts of the country but also in their social, economic and psychological rehabilitation. With a view to encourage involvement of voluntary agencies in the identification and rehabilitation of bonded labourers, a new plan scheme titled "Grants in Aid to Voluntary Agencies in the Identification and Rehabilitation of Bonded Labourers" has been launched by the Government of India since 30th October, 1987. This scheme is implemented jointly by the Central Government, State Government and the Council for Advancement of People's Actions and Rural Technology (CAPART). An amount of Rs.1 crore was provided in the Revised Estimates for the Scheme during the Seventh Plan (1985-90).

1.6 The State Governments had been advised by the Government of India repeatedly to integrate with the aforesaid Centrally Sponsored Scheme all the available anti-poverty programmes including grant of cultivable lands, to give a package for effective rehabilitation to the bonded labour families.

The efforts of the Government and the various agencies in implementing the various provisions of the Act and the various schemes for rehabilitation have been assessed, evaluated and reviewed from time to time by various agencies at macro and smaller levels.

1.7 In September / October 1989, the National Commission on Rural Labour entrusted the task of study of the various issues related to the system of bonded labour and its abolition to this Academy. Accordingly, this study was taken up with the following specific objectives.

2. OBJECTIVES OF THE STUDY- TERMS OF REFERENCE

(i) To make an assessment of the present situation in terms of nature and incidence of bonded labour in different parts of the country;

(ii) To look at the efforts made by the Central and State Governments in the areas of identification, release and rehabilitation of bonded labourers;

(iii) To look into the efforts of the Non-Governmental Organisations in the identification, release and rehabilitation of bonded labourers;

(iv) To look at the level of implementation of the present Act and the problems encountered in its implementation as well as the need for amendments;

(v) To examine newer forms of bondage and the non-traditional areas where the problem now occurs as well as to examine the nature of bondage occurring in the case of women and children;

(vi) To formulate recommendations for improvement in the process of identification and release of bonded labourers; and finally

(vii) To formulate measures of rehabilitation through economic assistance and to improve the quality of life of the released bonded labourers.

3. METHODOLOGY ADOPTED

Keeping the above mentioned objectives in view, all the available literature, published and unpublished, on bonded labour has been utilised. Attempts have been made to elicit and incorporate information from activists, NGOs, experts and administrators involved in these issues. Group A services who undergo foundational training in this Academy and also the probationers of the Indian Administrative Service who undergo field training in their respective States had been asked to study the various aspects of this problem during their training. Their findings have also been incorporated.

The sources used by us could be broadly classified as follows:-

3.1 Macro studies based on surveys

(1) National Survey of Bonded labour by Gandhi Peace Foundation (1978-80);
(2) Survey by National Sample Survey Organisation in 1977-78;
(3) Surveys of State Governments;
(4) Survey conducted by IAS probationers;
(5) Reports of the Commissioner for Scheduled Castes and Scheduled Tribes; and
(6) Report of the National Centre for Human Settlements and Environment, 1987.

3.2 Micro Case Studies

Studies conducted by various scholars, institutions, administrators, journalists, legal experts, social activists and voluntary action groups.

3.3 Macro Evaluation studies

(1) Evaluation of the Centrally Sponsored Scheme for the Rehabilitation of Bonded Labour by the Planning Commission (1984);
(2) Report of the Sub-Committee of the Parliamentary Consultative Committee for the Ministry of Labour; and
(3) Report of the Working Group on Development of Scheduled Castes, 1980.

3.4 Micro Evaluation Studies

The tour reports of the Director General of Labour Welfare, Government of India, assessment studies conducted / commissioned by State Governments, academicians, researchers, activists and newspapers. Also the study conducted by the probationers and certain voluntary agencies at the behest of this Academy.

3.5 We have also got useful material from the National Commission on Rural Labour in the form of notes. The Academy conducted two workshops on the subject in the month of January and February, 1990. The papers presented in these workshops have also been incorporated in drafting this report.

4. FINDINGS OF THE VARIOUS STUDIES, SURVEYS IN A NUTSHELL

4.1 Though the forced labour of all forms including bonded labour had been banned by the Constitution of India by virtue of Article 23 (Right Against Exploitation), yet as we have mentioned earlier, it was only in the year 1975-76 that the specific law abolishing the system of bonded labour was made. Even then no scientific estimation had been done about the nature and extent of prevalence of this system in different parts of the country. It was only in the year 1978-79 that the Gandhi Peace Foundation undertook a pioneering national survey of the incidence of bonded labour in 10 states of the country. Almost simultaneously the National Sample Survey Organisation, through its sample surveys regarding employment and unemployment situation in the country, made an estimation of the nature and extent of bonded labour in the different parts of the country.

4.2 However, the responsibility for identifying the bonded labour rests under the Act upon the State Governments. The comparative pictures of the number of bonded labourers as estimated by the Gandhi Peace Foundation (1979-80), National Sample Survey Organisation (1978-79) and the State Governments (as on 31-3-89) is given in the following table:- (See Next page)

4.3 It is interesting to note that the estimation of NSSO and the State Governments did not differ as widely as they do with the GPF estimation. What is more interesting is that around the time the

Table-1

Number of Bonded Labourers as Estimated by Gandhi Peace Foundation, National Sample Survey Organisation and State Governments.

Sl. No.	State	As estimated by Gandhi Peace Foundation (1979-80)*	As estimated by NSSO (1978-79)**	As identified by State Governments (as on 31-3-89)***	% of State Government survey to GPF
1.	Andhra Pradesh	3,25,000	7,300	33,954	10.5
2.	Assam	---------	4,400	------	------
3.	Bihar	1,11,000	1,02,400	12,388	11.2
4.	Gujarat	1,71,000	4,200	64	0.4
5.	Haryana	----------	12,900	477	----------
6.	Himachal Paradesh	----------	----------	----------	----------
7.	Jammu & Kashmir	----------	900	----------	----------
8.	Karnataka	1,93,000	14,100	62,689	32.5
9.	Kerala	----------	400	823	----------
10	Madhya Pradesh	5,00,000	1,16,200	10,895	2.2
11.	Maharashtra	1,00,000	4,300	1,331	1.5
12.	Manipur	----------	----------	----------	----------
13.	Meghalaya	----------	----------	----------	----------

14.	Nagaland	----------	----------	----------	----------
15.	Orissa	3,50,000	5,400	48,750	13.9
16.	Punjab	----------	4,300	----------	----------
17.	Rajasthan	67,000	2,400	7,127	10.6
18.	Tamilnadu	2,50,000	12,500	37,965	15.2
19.	Tripura	----------	----------	----------	----------
20.	Uttar Pradesh	5,50,000	31,700	26,155	4.8
21.	West Bengal	----------	21,600	----------	----------
22.	Union Territories	----------	----------	----------	----------
	All India	**26,17,000**	**3,45,000**	**2,42,618**	**9.3**

Source:

* Final Report January, 1981 of the Gandhi Peace Foundation

** Sarvekshan Vol.II No.4, April 1979.

*** Ministry of Labour, Government of India, (Annual Report 1989-90, Vol.I, New Delhi.

GPF and NSSO estimation came, only 9 states had officially admitted existence of bonded labour. The official estimation of bonded labourers by the State Governments as on 31-3-80 is given below: (See, next page)

4.4 The findings of GPF had tremendous impact not only upon the Government but also on the various activists, organisations and institutions working for or studying the various issues connected with poverty and other socio-economic problems including bonded labour in the country.

Table-2

Number of Bonded Labourers, as Estimated by State Governemts as on 31-3-1980

Sl. No.	States	Estimated Number of Bonded Labourers
1.	Andhra Pradesh	12701
2.	Bihar	4218
3.	Karnataka	62689
4.	Kerala	700
5.	Madhya Pradesh	1531
6.	Orissa	337
7.	Rajasthan	6000
8.	Tamilnadu	27874
9.	Uttar Pradesh	4469
	Total	120519

4.5 Even before the year 1975, certain institutions, notably the Commissioner for Scheduled Castes and Scheduled Tribes, had been highlighting the issue of bonded labour in agriculture and other sectors of the country's socio-economic fabric. All these put together, the Government of India repeatedly advised the State Government from 1975-76 onwards to regularly conduct surveys for identification of bonded labour in nooks and corners of their respective states. As a result, as we noticed in the Tables 1 and 2 above, the final picture of the incidence of bonded labour identified by the State Government rose from 120519 as on 31-3-80 to 242618 as on 31-3-89, a full double. All this increased number came from Andhra Pradesh 21253, Bihar 8170, Kerala 123, Madhya Pradesh 9364, Orissa 48413, Rajasthan 1127, Tamilnadu 10091 and Uttar Pradesh 21686. States like Gujarat, Haryana and

Maharashtra, which had denied the existence of bonded labour in their territories upto 1980, also reported existence of bonded labour later (Gujarat 64, Haryana 477 and Maharashtra 1331). It is to be noted that bonded labourers have been identified in these three States mainly on account of the strenuous efforts of the non-governmental organizations / activists.

4.6 Many other micro studies have also indicated existence of bonded labour in various forms in different parts of the country. One of the pioneering efforts in this regard came from the Lal Bahadur Shastri National Academy of Administration. In the year 1975, a group of 35 probationers of the Indian Administrative Service undergoing training at the Academy made a socio-economic survey of five development blocks in "Jaunsar-Badar-Jaunpur Rawain" areas in the districts of Dehradun, Tehri Garhwal and Uttar Kashi in the North-western Hills of Uttar Pradesh. This survey exposed the widespread prevalence of acute indebtedness, coupled with bonded labour and severe poverty among the households of the village poors in these areas. These probationers had also highlighted the fact that on account of acute poverty and bondage, these rural poor had even to send away their female members for immoral acts (prostitution) in the cities of the plains.

4.7 There are many other reports of surveys conducted by the probationers of various services while they underwent institutional training in the Academy and field training in their respective states. These reports also throw light on the various aspects connected with the system of bonded labour in the country. Some of such probationers were sent to Raipur (Madhya Pradesh), Kodaikanal (TamilNadu), Thane (Maharashtra), besides many parts of the hills of Uttar Pradesh to study the subject. Their reports have highlighted (and) reinforced the prevalence of bondage in these areas. Some of the important issues brought out through their reports are as follows:-

(1) There have been wrong identification(s) of bonded labourers ostensibly to knock off the rehabilitation funds. The local vested interests and unscrupulous corrupt officials seem to be involved in this racket. (51st

Foundational Course, 1988. Dhanpaw and Thana villages, Kalsi Block of Dehradun District.

(2) Rehabilitation Schemes have not improved conditions of the bonded labourers. Many ex-bonded labourers were still paying to their ex-masters the remaining amount of borrowed money even after their rehabilitation. The assets given were worth far less than actual value on paper. In some cases, the distribution of asset was fictitious. (47th Foundational Course 1986, Study of Jaunsari Tribes in Jhutaya Gram Sabha area of Kalsi block, Dehradun District.)

(3) Rehabilitation programmes have proved to be a failure though the bonded labourers have not relapsed into bondage. (Lakha Mandal, Guthar and Dhaura Kudia Villages of Chakrata block and Rikhad, Chapna and Amraya villages of Kalsi block, Dehradun District, 54th Foundational course, 1989).

(4) The land based rehabilitation of released bonded labourers of the Coupes of Kodaikanal (Tamilnadu) has not proved to be successful because of inaccurate planning and insufficient follow up (Group Report by IAS Probationers, 1989).

(5) In Thane District (Maharashtra), due to poverty, illiteracy and ignorance of the Adivasis, the problem of bondage has become a social custom. The efforts of a voluntary organisation, Shramjeevi Sangathana, in identifying, releasing and rehabilitating the bonded labourers is noteworthy. Other than agriculture, this study found prevalence of bonded labour system in fishery activity also (Group Report by IAS Probationers, 1989).

(6) In Koti village of Kalsi block, Dehradun district, the released bonded labourers are still living in deprivation and misery. Though many of them were given lands and/or other assets, some of such land has been acquired for a Project and meagre compensation was given. There are no health and education facilities. (Survey of Village Koti by Shri Pankai Rag, IAS

Probationer, LBS National Academy of Administration, September 1990).

4.8 We also have reports about the Rural Labour Camps arranged by the National Labour Institute (NLI). The NLI had conducted 61 such camps during 1974-75 to 1986-87 in different parts of the country. The aim was to make the rural agricultural labourers, particularly those belonging to weaker sections, aware about their rights and about the welfare schemes of the State Government.

4.9 The Programme Evaluation Organisation of the Government of India conducted an evaluation of the Centrally Sponsored Scheme (CSS) for Rehabilitation of Bonded Labourers and submitted its report in March, 1984. This survey covered 18 districts in 8 States namely, Andhra Paradesh, Bihar, Karnataka, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh. A total of 782 beneficiaries were surveyed in 112 villages of the selected districts. Though the basic aim was to evaluate the CSS, yet a subsidiary aim was to study the administrative systems regarding identification and release of the bonded labourers. The findings of this evaluation are summarised as follow(s):-

(i) In three States namely Andhra Paradesh, Bihar and Orissa, some guidelines and questionnaires were prepared by the State Government and issued to the lower level functionaries for identifying the bonded labourers. However, in four States, namely, Kerala, Madhya Pradesh, Rajasthan and Tamil Nadu, no such criterion was circulated for adoption by the functionaries at various levels. In Karnataka, identification was made reasonably well. By and large, some wrong identifications were also noticed.

(ii) The Parliamentary Consultative Committee for the Ministry of Labour had constituted a Sub-Committee for studying and reporting on the problems of unorganised workers in agriculture sector (1988). The report of this Sub-Committee concentrates on the rehabilitation issues. However, it also highlights the need for continuous efforts in identifying the fresh cases of bondage and relapse into bondage. This Sub-Committee emphasised the need to consider certain "attached" form of labour as bonded labour. The Sub-Committee emphasised the need for an elaborate machinery for proper identification, release and rehabilitation of bonded labourers. In this effort, it suggested involvement of social organisations and trade union activists. It also recommended for a support enforcement staff for ensuring minimum wages for rural labour on the lines of the Rural Labour Commissioner of Gujarat, besides extending the scheme of Honorary Rural Organisers.

(iii) The Central Standing Committee on Rural Unorganised Labour constituted a Sub-Committee on Bonded Labour in the late 1970s. This Sub-Committee gave a set of recommendations which are given as Annexure 1.3 in Volume I of our report. Most of these recommendations are useful and have been incorporated in the Recommendation Part of our Report.

4.10 The Working Group on Development of Scheduled Castes strongly recommended in September 1980 to expeditiously and thoroughly implement the recommendations of the aforesaid Sub-Committee. It also recommended for Group Rehabilitation Schemes for the released bonded labourers.

4.11 The National Centre for Human Settlements and Environment, New Delhi has also given a report on bonded labour and its Abolition (1987). This study appreciates the intention and drafting of the Act, but pleads for stringent implementation of its provisions and for involvement of voluntary action groups.

4.12 The National Commission on Rural Labour has sent us a note on bonded labour in 1989-90 which gives a resume of the various developments so far.

4.13 The Director General Labour Welfare had toured Andhra Pradesh, Bihar, Karnataka, Madhya Pradesh, Orissa, Rajasthan and Tamilnadu during 1985-1988 to study the various aspects of implementation of the Act, the CSS and the HRO schemes. He noticed delay in identification in some cases and time lag between identification and rehabilitation in many cases. His other findings mainly concern release and rehabilitation aspects which are covered subsequently in this report.

4.14 The Indian Institute of Public Administration has conducted studies about rehabilitation of bonded labour in Kota (Rajasthan), Jabalpur (Madhya Pradesh), Monghyr (Bihar), Koraput (Orissa), Chikmagalur (Karnataka), Medak (Andhra Pradesh) and Jaunpur Block, Tehri Garhwal District (Uttar Pradesh) in the years 1980-84. These studies highlight the various aspects connected with identification, release and rehabilitation of bonded labourers in the localised pockets.

4.15 The National Institute of Rural Development, Hyderabad also conducted a study of 158 released bonded labourers in Rangareddy District of Andhra Pradesh. This study aimed basically at reviewing the release and rehabilitation aspects.

4.16 This Academy commissioned a study of the impact of rehabilitation efforts for bonded laoburers in Kodaikanal (Tamilnadu). A similar study was undertaken for Saraswati Nagar (Karnataka).

5. CRITIQUES OF THE VARIOUS STUDIES

5.1 The survey of GPF has been appreciated by a large number of organisations and institutions. However, many Government organisations find fault with the sampling methodology adopted by the GPF. All the same this study remains a very important source of information in the field.

5.2 The NSSO surveys have been found to be suffering from the lacuna of lack of focus on the issue of bonded labour. Yet, this survey also gave important information in regions not covered by other surveys.

5.3 The surveys of State Governments are no doubt authentic information on the issue. However, it is noticed that the field level and even the higher level functionaries are many a time not clear about the definitional aspects of the bonded labour. At other times they are not properly motivated for the task. In many cases, the State Governments have been found to be lacking political will in implementing the provisions of the Act. These aspects are highlighted on account of the fact that many NGOs and even the Supreme Court had to intervene time and again in various parts of the country to get the bonded labourers identified and released.

5.4 The Report of the Commissioner for Scheduled Castes and Scheduled Tribes has been consistent and useful in highlighting the problem of bonded labour in various States.

5.5 The various micro studies are indeed important but because of limitations of their coverage, it would be difficult to generalise their findings. Even the PEO study suffers from this lacuna to some extent. The Reports of the Parliamentary Committee on the Ministry of labour, Working Group on Development of Scheduled Castes and the Central Standing Committee on Rural Unorganised Labour are quite useful, as they are based on detailed field visits. The study tour reports of DGLW, though limited in coverage, offer valuable data and information on the subject.

5.6 The reports of the probationers of IAS and other services are of two kinds. Some are basing on the fields visits, which are useful and authentic. However, some of these reports are based on secondary data and without any field visits. Such reports are not very useful for our study. However, to the extent the probationers got sensitised to the various aspects connected with the issue of bonded labour all these study reports are useful to the administration and the society.

6. INDEBTEDNESS OF RURAL POPULACE

6.1 The Rural Labour Enquiry, Final Report on Indebtedness Amongst Rural Households (1977-78), Labour Bureau, Shimla has given some important aspects regarding indebtedness of rural populace which in many cases is the leading cause for bondage. Amongst the agriculture households, 52.3 per cent were reported to be under debt during 1977-78 at All India level.

In States like Andhra Pradesh, Haryana, Jammu & Kashmir, Kerala, Punjab, Rajasthan and Tamil Nadu, proportion of indebted households was higher than the All India. Surprisingly, Kerala reported highest degree of indebtedness (81 per cent) and Assam lowest (11 per cent).

6.2 The incidence of indebtedness among Scheduled Caste agricultural labour households declined from 70.8 per cent in 1974-75 to 57.9 percent in 1977-78. The figures for their Scheduled Tribe counterparts were 49.8 per cent in 1974-75 and 37.6 per cent in 1977-78.

6.3 The average amount of debt per indebted household at All India level was Rs. 690 for all classes, Rs. 633 for the Scheduled Caste and Rs. 477 for the Scheduled Tribe households, respectively. In all the three cases, the average amount of debt had increased since 1974-75 by about 10 to 20 per cent.

6.4 The proportion of hereditary loan to the total outstanding loan was estimated roughly to be 5 per cent in both the years, 1974-75 and 1977-78. The same percentage was true for the Scheduled Caste as well as Scheduled Tribe households.

6.5 If we consider the average annual income of these households, the amount of debt on average households is very high. This points to the fact of indebtedness being a major causal factor for bonded labour system.

6.6 The Gandhi Peace Foundation has pointed out a variety of other causal factors for bondage. These could be summarised as follows:

(i) Inter-generational bondage:

After a bonded labourer "retires", his son replaces him as bonded labour. In some cases, younger brother replaces elder brother in some ways.

(ii) Child Bondage:

The child is given to the landlord by the elders of the family to graze the Master's cattle. Loan may or may not be taken but the child gets its food from the master and the family is relieved from the responsibility of feeding.

(iii) Loyalty Bondage:

Under this system, noticed in Madhya Pradesh and Orissa, bonded labourer works for a master and in return gets his daily food plus nominal wages. The master loans him consumption money also to be debited against his labour. He is available for the master at all times and does not have the right to leave the village or seek alternative employment without the permission of the master.

(iv) Bondage through Land Allotment:

The master lends one or two acres of land for cultivation to the labourer and the bondage begins. He works on this land as well as on his master's as a bonded labourer. He has also to share the crop of 'his' land with the master.

(v) Widow Bondage:

The master cares for her after the death of her husband. In return, she gets minimal food for survival.

6.7 In addition to the above, we have noticed bondage on account of social customs where the members of a community have to serve members of another community in bond as a social custom. There are also occasions where land owner has given either a hut or a mere house to the agricultural labourer and this is treated as a loan causing the bond. There are instances in Andhra Pradesh where one family member has replaced a bonded labour member of his family after the latter was ill or too old. The issues concerning migrant bonded labour, women bonded labour and child bonded labour are described hereunder.

7. MIGRANT BONDED LABOUR

7.1 According to Rural Labour Inquiry in 1974-75, the average wage employment days for agricultural labourers in the country was 215 days. To manage the other 150 days in a year, they migrate. Crop failures on account of natural calamities too force agricultural labour and other rural workers to migrate to nearby cities/towns or even to far away places. There are labour contractors who give them small advance which they use immediately to tide over the outstanding liabilities, partly or fully and thus not only incur fresh loans but also enter into bondage.

7.2 We have, in our report, given detailed account of migrant bonded labour in agricultural sector in Punjab. Such workers come mainly from Bihar and Uttar Pradesh. They are recruited through agents at the origin and given a small advance and the railway ticket. At the work place they do not get full wages – a part of the wages is taken towards the advance and towards the "charges" payable to the intermediaries. Working hours are extended to long periods in the day and any slackness in work is rewarded with physical assaults. Prof. K. Gopal Iyer (now with this Academy) and Manjit Singh have given an interesting case study (para 3.2, Vol I).

7.3 Migrant bonded workers from Bihar have been noticed working not only in Punjab but also in Haryana, Uttar Pradesh and West Bengal. Brick Kilns are another potential source for bonded labour. Migrant bonded labour in brick kilns have been noticed in Punjab, Uttar Pradesh (Muzaffarnagar), Bihar (Singhbhum) and even Tripura. Some of them had come from different districts of the same State and some had come from other States.

7.4 The sugarcane industry in agriculture in Gujarat has shown instances of halpatis, one of the weakest tribal communities, working as bonded labourers in the fields of neo-rich farmers.

7.5 Stone and slate quarries and mines are yet another area where migrant bonded labour system has been noticed to be widely prevalent. Our study has quoted plight of Scheduled Caste bonded migrant workers mostly from Rajasthan working in the stone quarries in Delhi; from Charisgarh in Madhya Pradesh, Akola in Maharashtra and Barmer in Rajasthan working in the stone quarries of Aravali hills (Haryana); from Salem district of Tamilnadu working in the stone quarries of Rangareddy district (Andhra Pradesh) and in the slate slab quarries of Guntur district; from Gaya district working in the quarries of Rohtas district (both in Bihar); from Guna district of Madhya Pradesh working in the quarries of Kota district (Rajasthan); and from Tamil Nadu working in the quarries in Rewa district (Madhya Pradesh).

7.6 In a State like Jammu and Kashmir which has even till date not confirmed the existence of bonded labour in its territory, incidence of migrant bonded labour has been noticed. The Commissioner for Scheduled Castes and Scheduled Tribes in his report (1979-81) has noticed that Scheduled Tribe migrant workers from Orissa were reported to be working in the ice bound Kistwar area of Jammu in 1981.

7.7 The plantations of Assam have also quoted migrant bonded labourers as reported by Shobita Jain (para 3.14, Vol 1). So far exact figures on such plantation workers are not available.

7.8 In Nagaland, which has denied the existence of any kind of bonded labour, the IAS probationer has reported in March, 1990 that cheap working force from the plains of Assam and Bihar is lured to work under lopsided contract. There are also report(s) of girls from Assam plains working in Nagaland's affluent households in semi-bonded conditions.

7.9 The Railway Coal Yard of Sabarmati has sprung a surprise by the discovery of Sujata Patel that 600 to 700 young and old workers put together from Tamil Nadu, Madhya Pradesh and Sabarkantha (Gujarat) were working in inhuman and unsafe working conditions.

7.10 Gujarat has also given a picture of migrant bonded labour in the Seaports of Jamnagar.

7.11 In Tamil Nadu we have seen the famous case of repatriates working as bonded labour in Kodaikanal coupes, who were released after strenuous efforts of a young civil servant on the one hand and the Highest Court of the country on the other with Bandhua Mukti Morcha playing a leading role.

7.12 The phenomenon of migrant bonded labour cannot be said to have been confined to a particular State. From Tamil Nadu, as per official records, 9619 workers were identified as bonded labourers in States like Madhya Pradesh, Uttar Pradesh, Andhra

Pradesh and Rajasthan, mostly working in the quarries. From Bihar an unspecified number of bonded labourers have been noticed working as bonded labourers in Delhi, Haryana, Uttar Pradesh, Punjab, West Bengal, Assam, Nagaland, Tripura, Rajasthan etc. Like wise, from Madhya Pradesh labourers have gone out and become bonded labourers to work in States like Gujarat, Rajasthan, Delhi etc.

7.13 The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Services) Act 1979, Contract Labour (Regulation and Abolition) Act 1970 and Minimum Wages Act are only some of the major Acts which ought to be followed scrupulously in respect of migrant workers. But our study indicates that almost all the provisions of these laws are being flagrantly violated to the tremendous detriment of the migrant workers. This is another major causal factor for bondage among migrant workers.

7.14 As we noticed in the later part of this report, the migrant bonded labourers suffer at the time of their rehabilitation also. The State where they are identified washes its hands off by issue of release certificate and dispatches them to their place of origin. In the latter place, they do not evoke any attention or sympathy from the authorities. The case of 633 released bonded labourers from stone quarries of Kota (Rajasthan) who were repatriated to their home district of Guna (Madhya Pradesh) is a case in point. The local authorities of Guna refused to believe the release certificates issued by Kota authorities. For months these helpless persons continued to suffer in abject misery. Even the women bonded labuourers of the hill districts of Uttar Pradesh, who were trapped under bonds to work in the brothels of cities, were perhaps worse off after release, for want of proper rehabilitation at their original place. We have quoted other similar incidences in the rehabilitation part of our report. A clear cut policy is to be decided regarding the rehabilitation of migrant bonded workers.

8. WOMEN IN BONDAGE

8.1 Though the GPF study found only 2.3 per cent of the estimated number of bonded labourers to be female, yet other macro-studies are not very specific in this regard. Even the State surveys do not give the number of women bonded labourers identified.

8.2 Bondage for women is on account of social as well as economic factors. Among the Erukalas in Andhra Pradesh, Korvanas of Tamil Nadu and Korchas of Karnataka, creditor has the right to demand debtor's wife until the last paise is discharged.

8.3 In South India, we noticed the system of *jogini* in Andhra Pradesh and *devadasi* in Karnataka where poor women are forced into sexual slavery on account of social superstitions. Whereas the *joginis* are married off to a 'village God' as a sacrifice to ward off catastrophes like drought, *devadasis* are forced to serve the temple. In both the cases, they get bonded socially for their whole life.

8.4 The female members of the family of a male bonded labour share his plight in the bond also. However, the degree and nature of its manifestations vary from place to place. In Himalayan region, we have noticed that the debtor's children and wife were also auctioned in the market. Again in Purola block of Uttarkashi district, we have noticed cases where indebtedness forces the debtor to send his wife or daughter to the cities for the purposes of prostitution to earn money to repay the loan. In Lakhamandal and Dhaura villages of Janusar Bawar area of Dehradun, similar instances were noticed.

8.5 Down the South in Malabar hills, we have noticed that women are put in bondages of pseudo marriage to persons from oil rich countries on account of poverty. Such pseudo-marriages escape the SIT Act, 1976. Female bonded labour is also noticed in the bidi industry of Vellore (Tamil Nadu) and weaving industry of the same State. In weaving industry, it is the master weaver and the merchant who normally become the creditor and converts the credit given to the women workers into a bond. In Eastern India, we have reported the case of *nachinis* or dancing girls who are brought into bondage through actual purchase by the rich from the poverty stricken families. In Bengal, we have also noticed the case where a female member of a debtor has been forced to lead a life of prostitution, which is the worst form of bondage.

8.6 Bondage of women has to be seen in two aspects. One is the position of women in the society, which is a highly vulnerable one. The second is the plight of the poor as such in the country. When the family enters the debt cycle, all members, men, women and children of the family, share the suffering in many ways. The social customs which go against women in different parts of the country further aggravate this situation in the case of women.

9. CHILD BONDAGE

9.1 Part III of the Constitution of India dealing with the Fundamental Rights, prohibits employment of children in factories, mines and other hazardous employment (Article 24). However, children in many parts of our country are not only found working in such prohibited sectors but, worst of all, a large number of such unfortunate children work in conditions of bondage.

9.2 It has been noticed that a child labourer is normally paid much less than he should be paid under the Minimum Wages Act. In 1985, the Child Labour Advisory Committee discovered that in the carpet industry of Varanasi and Mirzapur, a child labour was paid less than Rs. 3 per day and in shoe making industry in Agra, Rs. 4 per day. The average income of a working child is estimated at Rs. 90 per month.

9.3 All the labour legislations relating to child labour provide for limited hours of work for children. Our study has reported that these provisions are being violated in almost all the cases listed below:-

1. Tea factories;
2. Cashew processing and gum making;
3. Manufacturing of wood and wood products;
4. Cotton textile industry;
5. Hosiery industry;
6. Chemicals and chemical products (match and fireworks);
7. Stone crushing;
8. Plantations;
9. Handlooms;
10. Bidi;

11. Glass bangle;
12. Carpet weaving;
13. Soaps and commercial establishment;
14. Coir;
15. Fishing and
16. Domestic services.

The child workers are exposed to various kinds of health hazards including diseases.

9.4 It has been reported in the 1971 Census that the total number of such workers was 10.7 million representing 4.7 per cent of the total child population and 5.9 per cent of the total labour force. However, according to Asian Labour Monitor, every third household in India has a working child.

The causal factors for child labour are summarised as below:-

1. **Feudal mode:**
   In a feudalistic pattern, the whole family including children of the labourer has to work for the master.

2. **Debt bondage mode:**
   Children are pledged in part payment of a debt.

3. **Apprenticeship mode:**
   In the name of providing training to children (apprenticeship), the master craftsman keeps them as bonded.

4. **Marginal economic activity mode:**
   Anti-social elements keep children under bondage, particularly in urban areas and force them to work as beggars, rag pickers, shoe shiners etc.

5. **Wage labour mode:**
   To supplement the wages of the family, the children also join.

6. **Familial tradition mode:**
   The tacit understanding is that when one of the head of the family is a bonded labourer, his wife and children will also work.

7. **Caste mode:**
   According to GPF study, 13 per cent of the bonded labourers were working for their masters because they belonged to a particular caste. Child bonded labour becomes an integral part of such a system.

The Existence of a Child Bonded Labourer:

9.5 The GPF study has put the total number of child bonded labourers at 8.1 per cent out of the total of 26.17 lakh bonded labour for the country. The highest percentage came from Orissa (20.4) and Andhra Pradesh (20.2) followed by Tamil Nadu (13.8), Karnataka (9.0), Madhya Pradesh (5.5), Rajasthan (5.4), Uttar Pradesh (3.8), Bihar (1.9) and Maharashtra (1.7).

9.6 Approaches to Child Protection:

1. Legislative approach:

A large number of enactments, particularly the Child Labour (Prohibition and Regulation) Act, 1986, Employment of Children Act, Factories Act and so on regulate the working conditions of the children. However, enforcement of these legislations has been found to be insufficient.

2. National Policy on Child Labour:

An integrated national policy for child labour has been proposed to provide for a multi pronged development strategy for child labour. This includes non-formal education, health care and vocational training. Ten pilot projects in this regard have been taken up in the following places:

(i) Sivakasi (Tamil Nadu), for the child workers in fireworks and match industry;

(ii) Mirzapur Bhadohi (Uttar Pradesh), for the child labour in carpet weaving industry;
(iii) Madras, for the child labour in hotel industry.

9.7 Many voluntary organisations and institutions have been working to provide such integrated development for child workers. In our study we have quoted the efforts of some of such institutions, namely-

(i) Chetna Vikas in Vardha district in Maharashtra;
(ii) Indian Institute of Education in Pune district of Maharashtra;
(iii) Indian Institute of Rural Workers; and
(iv) Self-employed Women's Association.

Even trade unions have shown interest in this regard and we have quoted the approach of the Indian National Trade Union Congress (INTUC) for vocational training of youngsters in Greater Bombay area.

10. STATE-WISE ANALYSIS REGARDING INCIDENCE OF BONDED LABOUR

Andhra Pradesh

10.1 The system of bonded labour in Andhra Pradesh has been traditionally recorded by different names in different parts of the State. In Shrikakulam, Vishakhapatnam and East and West Godavari districts, it is called 'Gothi'. In Telengana region, it is called 'Bhagola'. The other names given to this system in Andhra Pradesh are Vethi (debt bondage), Jeetam and Chakari.

10.2 Various studies have shown that the root cause of bondage in this State has been poverty and indebtedness . Coupled with that is the widespread prevalence of loans for consumption given by landlords and this traps the poor agricultural labourer into bondage.

10.3 The nature of bondage has been noticed to be largely contract labour, the contract being either monthly or seasonal or annual.

10.4 According to State Government Survey, the number of bonded laborers in Andhra Pradesh as on 31-3-80 was 12741. Out of this, almost 50 per cent came from Medak district (7102). Other districts showing high incidence were Mehboob Nagar, Rangareddy and Warangal. The more recent figure, as on 31-3-89, received from Government of India, put the number of identified bonded labourers in this state at 33954, which is 14 per cent of the All-Indian figures.

10.5 As per GPF survey, the estimated number of bonded labourers in this State was 3.25 lakh which meant 5 per cent of total population of agricultural labourers. Seventy per cent of these bonded labourers were estimated to belong to Scheduled Castes, 18 per cent to Scheduled Tribes, 10 per cent to Backward Classes and 1 percent to Caste Hindus. Of the total bonded labourers surveyed, 94 per cent were illiterate.

10.6 The NSSO survey (1978-79) had put the number of bonded labourers in Andhra Pradesh at 7300.

10.7 We have noticed bondage in Andhra Pradesh not only among males but also among females and children. The female bonded labourers have been noticed specially as Joginis in Telengana area. Joginis are women from poorer families "dedicated" to the village deity to ward off any evil omen and calamities from the village. In fact, however, Joginis are physically abused by the village rich. Child bondage is noticed in Andhra Pradesh as part of family bondage.

10.8 The phenomenon of migrant bonded labour has been noticed in Andhra Pradesh in both ways. The poor people from this State particularly Telengana region have been migrating to Punjab for agricultural labour and to stone-quarries of Madhya Pradesh and Haryana, where they have been found in bondage on several occasions. On the other hand, labourers from Tamil Nadu, Karnataka and different parts of Andhra Pradesh have been found in bonds in stone-quarries of Hyderabad, Rangareddy and Guntur districts.

10.9 In many parts of this State, bonded labourers have been identified, released and rehabilitated through sustained efforts of voluntary organisations and activists. Many bonded labourers in Hyderabad and Rangareddy districts were released due to the efforts made by AWARE, an NGO which moved the Supreme Court for this purpose in 1983. Another organisation, Fellowship of Professional Workers (FPW) has also done commendable efforts in Mehboob Nagar district.

10.10 Time and again the State Government has taken steps to effectively implement the provisions of the Act and the rehabilitation schemes. Model guidelines were drafted along with questionnaires to identify bonded labourers and ensure their prompt release and rehabilitation. Additional Tehsildars were appointed in the districts for this purpose exclusively.

10.11 However, sustained efforts are needed to further identify the incidences and ensure the rehabilitation in an effective sustained manner.

Bihar

10.12 Bihar has traditionally been infested with the system of bonded labour. Even the British Government felt concern about it and made the Bihar & Orissa Kameoti Agreements Act 1920 to regulate the worker-employer contract and minimize exploitation of contract labourers. In 1974, the Bihar Legislature made two more Acts to emancipate the rural poor from widespread indebtedness. The first was the Bihar Scheduled Castes, Scheduled Tribes, Backward Classes and Denotified Tribes Debt belief Act, making any debt leading a person to work as labour, as well as such custom, as void, The second was the Bihar Money-Lenders Act which provided for automatic redemption of land mortgaged by poor peasants after a period of 7 years.

10.13 Despites all these efforts, rural indebtedness continued to overshadow the social economy of Bihar. According to Rural Labour Enquiry Committee, the percentage of rural households in debts in Bihar was 53 per cent in 1977-78 and 72 per cent in 1974-75. For both these years, these figures for Bihar were higher than the All India average.

10.14 According to our study, besides indebtedness, poverty, unemployment and illiteracy have been the major casual factors behind the system of bonded labour in this State.

10.15 The GPF survey (1978-79) had estimated the number of bonded labourers in this State as 1.10 lakh, which was equivalent to 2 per cent of the total population of agricultural labourers in the State. The maximum number was estimated in Palamau district (20,000). High incidences were estimated in Saran, Champaran, Monghyr, Santhal Parganas, Gaya and Muzaffarpur districts. Of the surveyed bonded labourers, 80 per cent were found to be from Scheduled Castes, 10 per cent from Scheduled Tribes and 6 per cent from Backward Classes. The percentage of women among the surveyed bonded labourers in Bihar was 5 as against the national figure of 2.3 for the 10 States surveyed by the GPF. The cause of bondage was mostly loan taken from the landlord, amounts being as small as even few hundred rupees, at very high interest rates of around 48 per cent. 18 per cent of the surveyed bonded labourers were found recruited during 1975-77. The average period of bondage was 8 years.

The NSSO estimation for Bihar is 1.02 lakh, which is quite close to the estimates of the GPF.

10.16 According to the State Government Surveys, the number of bonded labourers identified was 4218 in March, 1980, 10988 in September, 1985 and 12494 in March, 1990 including 427 who had died were wrongly identified and 689 migrants sent away to their Home-States, Of them, 68 per cent were SCs and 11.7 per cent STs. The highest number came from Monghyr (24.18 per cent) followed by West Champaran (18.11 per cent), Palamau (13.04 per cent) and Deoghar (12.58 per cent).

10.17 The basic cause for rural indebtedness among agricultural labourers in Bihar is the low wages being paid to them in violation of the Minimum Wages Act, chief reason being their illiteracy and ignorance. To counter this, the National Labour Institute organized Rural Labour Camps (RLCs) in various parts of Bihar during 1975-79, to generate awareness among them about labour welfare laws and schemes. Noting the benefits to these camps the State Government adopted the idea and held 298 camps from

1979-80 to 1980-90. A total of 14457 rural workers were trained, of whom 13.188 were SCs, 1012 were STs and 177 others. During Eighth Plan Period, 50 more camps were proposed.

10.18 Such camps had salutary effect in creating awareness regarding minimum wages as the cases held under MWA which numbered 1500 per year in 1968 rose to 12,000 per year in 1975 and are expected to be 25,000 per year now.

10.19 Out-migration of bonded labourers has been noticed from various districts of Bihar particularly Gaya and Singhbhum etc. In West Champaran bogus identification was noticed, to knock off rehabilitation grants, as noticed by various NGOs/activists who waged struggle to get genuine bonded labourers identified and released. In Singhbhum we notice a two way traffic of bonded labourers. In the year 1981, 329 bonded labourers belonging to this district were noticed in the stone-quarries of Rohtas. Also 289 bonded labourers from Rohtas were identified as bonded in this district in agricultural fields. In another case, 112 bonded labourers belonging to Bilaspur (Madhya Pradesh) were identified in the unauthorised Brick-kilns of Singhbhum.

10.20 Palamau district has historically been a low productivity district for agriculture, which needed cheap and amenable labour force, all leading to a tradition of bonded labour system. In Palamau and elsewhere in Chhotanagpur, the Kamiya form of bonded labour has been found to be inter-generational and hereditary in character. Indebtedness of rural poor coupled with very high interests on loan has crystallized the stamp of bondage on the Kamiyas and other poor. In recent times exploitation of tribals by liquor contractors is also found to have produced another form of bondage.

10.21 The GPF survey estimated the number of bonded labourers in Palamau to be more than 20,000. However, according to State Government, the actual figures (identified as on 31-3-90) are 1484, of whom 90 per cent were SCs/STs.

10.22 Palamau has got bondage among men, women and children. In the carpet industry of South Eastern Uttar Pradesh, 328 child bonded labourers belonging to Palamau were identified a few years ago, of whom 213 belonged to SCs and 26 to STs.

10.23 In Monghyr district, the custom of bondage is very old. LSS O'Malley in Bengal District Gazetteer (1890) mentions that all persons belonging to Musahara caste were bondmen. Even the State Government survey (as on 30-3-90) has put the number of bonded labourers identified in this district as 2751, highest among all the districts of the State. Of them, 91 per cent were SCs, 3 per cent STs and 6 per cent BCs. Here again, indebtedness has been the major root cause of bondage.

10.24 In Santhal Parganas, notably Deoghar and Dumka, the Santhals, deprived of their land by the money-lenders became Kamiyas.

10.25 Protection of rights of tribals over their lands, protecting the rural poor from the usurious credit structure, besides effective implementation of Minimum Wages Act and sustained efforts for creating awareness and functional literacy among rural poor are necessary conditions to create an environment for doing away with the system of bonded labour.

Delhi

10.26 The National Capital of Delhi too manifested the existence of bonded labour system, which was discovered in 1980 in two cases. In the first case, 1500 migrant bonded labourers mostly belonging to SCs and from Rajasthan, were discovered in stone-quarries of South Delhi by a Journalist. Likewise, in the Asiad Construction Works, many migrant bonded labourers from Orissa, West Bengal, Bihar, Tamil Nadu and Rajasthan were reported by a Magazine (Sunday) to be working under bonded conditions. The Commissioner for Scheduled Castes and Scheduled Tribes conducted an enquiry into these complaints.

10.27 In another instance, bonded labour including children were identified at a Public Sector Hostel Construction site in Delhi (Manjari Dingwaney).

All these studies gave the following as features of bonded labour:-

(i) Poverty and nominal wages available back home caused these workers to migrate to Delhi;
(ii) The contractors give some advances to them which makes them bonded;
(iii) In many cases, the whole family used to work;
(iv) The working conditions were pitiable and full of occupational hazards with little or no safety measures;
(v) There were no medical, education, drinking water and sanitary facilities for the workers; and
(vi) Almost all labour welfare laws were not implemented at all.

Bonded labour has been noticed in Delhi not only in the quarries and civil constructions, but also in brick-klins, street restaurants, canteens, rag pickings, hawkers, cottage industries and domestic services.

Gujarat

10.28 Many scholars have joined the Government of Gujarat to say that the bonded labour system does not exist in Gujarat at least since 1975. However, another set of scholars/activists as well as the Commissioner for Scheduled Castes and Scheduled Tribes have been saying for several years to the contrary. The report of the Commissioner for the year 1986-87 states that the system exists in South Gujarat particularly among the Halpatis working as sugarcane harvesters.

10.29 A social activist organization had some years ago identified 25 migrant bonded labourers from South India in the seaports of Jamnagar.

10.30 An old system of contract labour called ‘Saathi’ still noticed in remote parts of Jamnagar district has shades of bondage, but is not included in the official definition. In this system, part wages are paid in cash in advance for the whole year and during the year the Saathi gets wages mostly in kind. It is to be studied whether Saathi is a bondage.

10.31 In April, 1983, a local press brought to light a case of bonded labourer among the coolies of the Food Corporation of India and Kandla Port Godowns.

Haryana

10.32 The GPF had excluded Haryana from its survey of bonded labour (1979-80) hoping that it would not be much in this state. However, the almost concurrent survey by the NSSO had put their estimate to be 12900. Inspite of that, the State Government neither admitted any trace of bondage nor conducted any survey in this regard.

10.33 Towards the end of 1980, a social activist organisation by name of Bandhua Mukti Morcha led by Swami Agnivesh was working for the cause of migrant bonded labourers in brick-kilns of Punjab, Haryana and Uttar Pradesh. In the process, they came across widespread prevalence of bonded labour in the stone-quarries of Aravali Hills in Haryana State, close to Delhi. They started efforts to get them released and got 250 migrant bonded labourers hailing from Bilaspur (Madhya Pradesh) released. Since there were still many more instances, the Morcha took up the matter with the Government of Haryana. However, they found not only the State Government unresponsive but even threats from the Chief Minister Shri Bhajan Lal for physical liquidation of Swami Agnivesh. Therefore, the Morcha moved Supreme Court on behalf of the bonded labourers. The Supreme Court appointed Commissioners for an Inquiry who gave report broadly agreeing with the contentions of the Morcha. The Supreme Court not only ordered for the immediate release of bonded labourers but also gave a 21 point directive to the Central and State Governments for their effective rehabilitation and for prevention of any atrocities on mine workers in future. This was in 1983. However, it was noticed by the court in 1989 that even after a lapse of six years Government had not implemented the 21-point directive.

10.34 Meanwhile, the Morcha continued its efforts and got many bonded labourers, mainly migrants form Madhya Pradesh, Himachal Pradesh, U.P, Bihar and Rajasthan released from stone-quarries of Faridabad and Gurgaon.

10.35 The latest report received by us from the State Government states that the number of bonded labourers identified and released in the state was 544 as on 31-3-90. Of them 379 were in Faridabad, 149 in Gurgaon and 116 in Bhiwani. All of them except 21 were reported by the State Government to be migrants from other States sent away to those States for rehabilitation.

Himachal Pradesh

10.36 The GPF and the NSSO excluded Himachal Pradesh from their surveys hoping that there would be no instance. Even the State Government has been stating that bonded labour system did not exist in the State. However, the Commissioner for Scheduled Castes and Scheduled Tribes has been reporting about the incidence of atrocities on members of Scheduled Tribes and Scheduled Castes in the State, mostly relating to land disputes. There is a hint about bond in these cases but on the face of it, they do not appear to be straight cases of bonded labour.

Jammu & Kashmir

10.37 The GPF excluded this state also from its survey in the hope that bonded labour system may not be existing there. The state Government has also consistently denied existence of the same. However, the NSSO survey estimated the number to be 900.

10.38 However, the Commissioner for Scheduled Castes and Scheduled Tribes (Report for 1979-81) has reported that many migrant bonded labourers from Orissa in the ice bound Kistwar area of Jammu were found working in pathetic conditions in road construction works. He referred the matter to the State Government, but the results are not known.

10.39 According to the Handicraft Census of the State Government (1978-79), there were 27,000 child workers (17,000 in household units, 4000 in non-household units and 6000 in work centres) in the State.

10.40 Many States have reported the pathetic working conditions bordering on bondage of child workers in the carpet industry of Jammu & Kashmir. Poor families mostly Muslims allow their children to work under odd conditions for economic reasons.

Karnataka

10.41 In the year 1963-64, the Commissioner for Scheduled Castes and Scheduled Tribes noted widespread prevalence of 'Jeetha' form of bonded labour in Karnataka. The Jeetha bonded labourers were invariably belonging to Scheduled Castes who had got into debt trap leading to bondage. The interest rates being as high as 144 per cent per year, there was no hope for the poor fellow to repay the interest, what to talk of the principal. As a result, he was forced to surrender his services to the creditor in bond. The Commissioner noted many persons working as Jeetha for 15 to 40 years. Many had inherited the debt and along with it the bond from their parents. Even children were found working as Jeetha. The bondage of Jeetha was found not limited to his own self: his entire family worked to share his burden.

10.42 In this background, the GPF survey of 1978-79 estimated the state to have 1.93 lakh bonded labourers which was 7.6 per cent of the State's population of agricultural labourers. The State ranked sixth among the 10 States surveyed. Very high prevalence (estimated number more than 20,000) was expected in Bangalore and Shimoga districts. High prevalence is noted in Mysore, Bijapur and five other districts. Of the surveyed bonded labourers, 64.7 per cent belonged to Scheduled Castes, 10 per cent to Scheduled Tribes, 6 per cent (to) caste Hindus and Muslims 4 per cent.

10.43 Besides Maharashtra and Madhya Pradesh, Karnataka was the only state where the GPF survey found caste Hindus also in bondage. The average debt was found to be Rs. 855. It may be noted that the Rural Labour Enquiry (GOI) had estimated average debt for all rural labour in Karnataka in 1977-78 to be Rs. 772 and (for) Scheduled Castes Rs. 644. The debt burden of bonded labourers was thus fairly higher than the average population.

10.44 The survey also noticed that 40 per cent of the bonded labourers had joined the rank in 1977-78 i.e. after the making of the Act.

10.45 As against this, the almost concurrent survey by NSSO had put the number of bonded labourers in the State at a mere 14100.

10.46 On the other hand, the State Government actually identified a large number, 62689, within a couple of years of the making of the law. Seventy three per cent of them were from Scheduled Castes, 6 per cent from Scheduled Tribes and 21 per cent from other communities. The largest number was from Mysore (39 per cent of State total) followed by Bangalore and Shimoga (14 per cent each) and Mandya (8.4 per cent).

The State Government has not identified any more bonded labourers after 1982.

Kerala

10.47 The Commissioner for Scheduled Castes and Scheduled Tribes had reported (1971-73) that bonded labour existed in Kerala among the Paniyans and Adiyans of South Wynad, Malapuram and Cannanore districts. It was generally a contractual bondage, usually for one year though at times for longer period also. Even children were deemed to be part of the contract.

10.48 We have also received reports about plight of some poor women, mostly teenaged girls of Malabar hills, taken to Bombay for doing prostitution. During recent times, some rich Arabs from Oil-rich countries are found purchasing teenaged girls from poor families of Malabar hills. To be free from grip of law they perform dubious marriage.

10.49 The GPF did not include Kerala in its survey. The NSSO did and put the number at 400. The State Government had on the other hand identified 823 bonded labourers before 1980. The State Government has been emphasising that no further case of bondage exists in its territory.

Madhya Pradesh

10.50 Madhya Pradesh shows prevalence of bondage in various forms, more popular being Kamiya, Harwaha and Hali. The rural poor is initiated into Kamiya bondage on account of loans he has to take which he cannot repay. S.K. Pandey (1972) has reported that these loans could be as small as Rs.40 to 100. However, the interest rate being exorbitant, it was not possible for the poor fellow to repay it fully. As a result of this, like the Jeetha of

Karnataka, he has to surrender his services and self to the creditor. Though the wages were reduced to take care of the loan burden but in fact, the loan always continued and even got compounded. In many cases, Kamiya children inherited bondage along with the debt burden from their parents.

10.51 The Commissioner for Scheduled Castes and Scheduled Tribes had also narrated the plight of another set of bonded labourers the Mahidars in Vindhya and Gwalior regions of the State. Social ceremonies among these poor tribals were quite ostentatious for which they had to take loan and enter the debt trap. Most of such loan would be for marriages of young children. In return of the loan, the child who was to be married, was also given away to the creditor as bonded.

10.52 The GPF survey had put the number of bonded labourers in M.P. at 5 lakh, which was next only to Uttar Pradesh (5.50 lakh). Very high (above 20,000) incidences were estimated for 7 districts-Bilaspur, Shahdol, Sharguja, Vidhisha, Satna, Raigarh and Bastar, followed by Guna and 7 other districts. Of the bonded labour surveyed by GPF, 53 percent belonged to Scheduled Tribes, 31 per cent to Scheduled Castes, 9 per cent to Backward Classes and 6 percent Upper Castes. The loan amount was rather low, ranging from Rs. 5 to 1000. The average period of bond was found to be 5.4 years. During the period of bondage, agreed wage was Rs. 52 per month (average) though in actual practice it was not more than Rs. 30 per month.

10.53 The GPF survey had also found indebtedness to be the major causal factor behind bondage (98 per cent). However, 12 per cent had taken land also from the master and 10 per cent had become bonded on account of the social customs / obligations.

10.54 The NSSO survey had also estimated high prevalence (1.16 lakh) of bonded labour in this State.

10.55 The State Government was, however, rather slow in identifying bonded labour. Upto 1980 only 1531 bonded labourers were identified, largest being in Bastar (307), following by Betul (231). Later, on account of the efforts of social activists, many cases of bondage came to light and the State Government also enhanced its efforts for fresh identification. Accordingly, the number of identified bonded labourers went up to 10895 as on 31-389.

10.56 Many States have reported that the minimum wages for agricultural labourers in this State itself is too low (7.95) which leads the poor labourers to private sources for consumption loan, leading him further to indebtedness and bondage.

10.57 The major sectors of prevalence of bonded labour in this State are agriculture, followed by stone-quarries (Shivpur, Reewa etc).

10.58 Physical and economic intimidation by the keeper class of such bonded labourers who wanted to throw off the yoke, has been noticed in several districts, particularly, Ratlam and Raisen.

10.59 The story of identification and release of bonded labourers in Madhya Pradesh would not be completed without mention of an activist social organization, the Chattisgarh Krishak Mazdoor Sangha. The Sangha got hundreds of bonded labourers released in this district by moving the Supreme Court. This act of the Sangha was instrumental in activating the State machinery to undertake fresh efforts for identification and release of bonded labourers in different parts of the State.

Maharashtra

10.60 The Commissioner for Scheduled Castes and Scheduled Tribes had reported about the existence of bonded labour called 'vet' or 'begar' among tribals of Thane and Nasik districts, way back in 1960-61. After promulgation of the Bonded Labour System (Abolition) Ordinance/Act, the GPF and the NSSO conducted surveys during 1979-80. The NSSO estimated the number of bonded labourers in the State to be 4300. The GPF put the number at 1 lakh which was 2 per cent of the total population of agricultural labourers.

However, the State Government took no concrete steps and reported nil incidence even upto 1980.

10.61 It was during 1980 that social activist organisations, Bhumi Sena and Vidhayak Sansad, brought to light existence of bondage among the poor villagers of Thane district. For paltry loans of less than Rs. 600, these people had become bonded, some of them for more than 6 years.

10.62 According to GPF study, very high incidence (more than 20,000) was estimated for Ahmadnagar district, high (for) Akola, Aurangabad, Nanded and Nasik districts and low in Thane and Ratnagiri districts.

10.63 Of the bonded labourers surveyed by GPF, 43 per cent belonged to Scheduled Tribes, 50 per cent to Scheduled Castes and the rest to the caste Hindus. Madhya Pradesh, Karnataka and Maharashtra were the only States where GPF study identified bonded labour from caste Hindus.

10.64 The quantum of loan taken by the bonded labourers was found to be between Rs.60 to 5000. The interest rate was as high as 50 per cent per annum (average).

10.65 The cause of bondage was largely (75 per cent) indebtedness on account of loans taken basically for consumption purposes. In 20 per cent cases, land allotment by the master was another reason for bondage. In 22 per cent cases, social custom was the cause. After the efforts of the voluntary organisations, the State Government did make same efforts and identified 1331 bonded labourers in the State.

10.66 In case of Thane, the efforts of Vidhayak Sansad in organising the bonded labour into Shramjeevi Sangathan offers an interesting case study. Thus organised bonded labourers went up in a march to the Legislative Assembly and gave a memorandum to the Chief Minister in July, 1983 for relief from the bondage. Though the Chief Minister gave them a patient hearing but no concrete results came out of it for almost one year. Meanwhile, the landlords organised themselves into Shetkari Sangathana and started influencing policy and other government officials to the detriment of the members of the Shramjeevi Sangathana.

Thus cornered, the Shramjeevi Sangathana led by Vidyutlata and Vivek Pandit moved the Supreme Court to secure relief.

The efforts of Shramjeevi Sangathana in the case of tribal bonded labourers led one of the keepers to be convicted and awarded imprisonment plus fine, which was claimed to be the first case of imprisonment under the Act.

Most of the bonded labourers identified in Maharashtra are in agriculture sector. However, it has also been noticed among fishermen in Thane district. In agriculture there are reports of attached labour in Thane, which is akin to bonded labour.

10.67 We have also reports of bonded labour from other parts of Maharashtra noticed in the brick-klins of Pune. There is another interesting case study by Anil Awchat about bonded life of the hamals of Pune city.

North-Eastern States

10.68 All the North-Eastern States have with one voice denied existence of bonded labour in their territories. Even the GPF study did not cover this area. However, NSSO (1978-79) estimated 4400 bonded labourers in Assam. Prior to that, the Commissioner for Scheduled Castes and Scheduled Tribes (1975-77) had indicated three cases of bonded labour in Mizoram.

10.69 We have studies of tea gardens of Assam where migrant bonded labourers from Gangetic plains have been found working under highly adverse physical and economic conditions.

10.70 In Nagaland, two kind of bondages have been noticed. One is the custom of taking young girls from plains of Assam to work for domestic service (called mines) at meagre salaries. Though they are not exactly under bond, but they are found helpless to leave the master. The other case is of the workers in civil construction who come from plains. The contractors keep possession of their inner line permits and use it as a lever to exploit the workers.

10.71 The migrant bonded labourers from Bihar were noticed in the brick fields of different parts of Tripura (Commissioner for Scheduled Castes and Scheduled Tribes, Report 1979-81). The Government of Tripura took immediate action to get them released and to dispatch them to their parent State, Bihar, with all wage dues.

Orissa

10.72 The oppressive policies of the princely states in early 19th century followed by similar policies, including zamindari of British in regard to peasantry caused widespread poverty in the State of Orissa. This led to large scale instances of indebtedness leading to bondage, specially among the Tribals. Another form of bondage peculiar for this state is 'dadan' labour system, which is a contract labour for migrant workers. It has not been regarded bonded officially as yet.

10.73 Despite a Debt Bondage Abolition Act brought into force in 1948, the situation did not improve much. Also, the Dadan Labour system (Control and Regulation) Act, 1975 does not seem to have had much effect.

10.74 The GPF study for this State put the number of bonded labourers at 3.5 lakhs which was 18 per cent of the population of agricultural labourers in the State. Very high prevalence was estimated in the districts of Balasore, Cuttack, Kalahandi, Sambalpur and four other districts, whereas a low incidence was estimated in Puri and Koraput districts.

10.75 Of the bonded labourers surveyed by the GPF, 34 percent belonged to Scheduled Tribes and 61.5 to Scheduled Castes. Women constituted 1 percent of the total.

10.76 The loan amount on the bonded labour was maximum of Rs.3,000 though in 35 percent cases it was less than Rs.300. In all cases, a bonded labour was found receiving less than the statutary minimum wages.

10.77 The NSSO survey estimated only 5,400 bonded labourers for this State.

10.78 The State government undertook efforts under the Act of 1976 rather belatedly. The number of bonded labourers officially identified in the State as on 31-3-1980 was only 337. However, now (as on 31-3-1990) the number is 19824, of whom 27.8 percent are from Scheduled Castes and 36.2 percent from Scheduled Tribes. The largest share of bonded labourers has come from Koraput district (18.3 percent), followed by Bolangir (14.3 percent), Cuttack (10.8 percent), Sambalpur (9.9 percent), Puri (8.6 percent) and Kalahandi (7.6 percent).

10.79 Unlike in most other States, not many NGOs/Activists have been noticed working for the cause of the bonded labourers in Orissa. The National Labour Institute organised rural labour camps in different districts of the State to create awareness among the rural labour about labour laws and welfare schemes. The camps were found to be quite successful.

10.80 In Kalahandi we have noticed distress sale of children from poverty stricken families.

10.81 In Phulbani there are reports of wrong identification of beneficiaries just to meet the contracts.

10.82 Bonded labourers out-migrating from Orissa have been found in stone-quarries in different parts of the country. Intra-State migrant bonded labourers have also been noticed.

Punjab

10.83 The GPF excluded Punjab from its survey on bonded labour (1978-79) presuming that the benefits of green revolution would have helped the labourer get better wages and remain out of bondage. However, the almost concurrent survey of the NSSO put the estimated number of bonded labourers in Punjab at 4300.

10.84 However, there are many studies about the working conditions of migrant workers in agriculture and brick kilns of Punjab, who work in bondage against small advance taken to meet certain social / consumption liabilities. In our study we have quoted some case studies notably by Manjit Singh and K.Gopal Iyer, besides by IAS probationers in which such migrant bonded labourers are described as working under executing work (harsh?) situations for unreasonably low wages under the threat of physical harassment.

Rajasthan

10.85 The traditional forms of bonded labour in the princely state of Rajasthan are the 'hali' and the sagri systems. The Commissioner for Scheduled Castes and Scheduled Tribes described the characteristics of sagri system in his report for 1964-66. Extravagance in social ceremonies like marriages were very common among the Bhils of Rajasthan (Dungarpur, Banswara and Chittorgarh districts) which forced them to take loans. Since they were not in a position to repay these loans, they used to mortgage their land, ornaments and even their own family members and self to the money lenders. Upon such mortgage, he and his family members became bonded for a period which was not specified.

10.86 The legislative efforts of the State through the Rajasthan Debt Relief Act,1951 and Sagri System Abolition Act of 1962 did not prove to be of much help as the idebtedness and consequent problems continued.

The 'hali' system has been said to be rather akin to slavery. It is a contract labour against an advance which is usually severe disadvantage to the hali.

10.87 The GPF study (1978-79) estimated the number of bonded labourers in Rajasthan to be 67,000 which is 9.4 percent of the State agricultural labour population. High incidence (10,000 to 20,000) was estimated in districts of Jhalawar and Kota and relatively low incidence in some other districts.

10.88 Fifty percent of surveyed bonded labourers were from Scheduled Castes, 25 percent from Scheduled Tribes and 19 percent from Backward Classes. All were males.

10.89 The average debt was found to be Rs. 1300. The need for loan was found to be for sheer survival in 68 percent cases, for festive ceremonies in 28 percent cases and for house building purposes, 1 to 2 percent. In 25 percent cases, the debt was taken by father and bondage was inherited consequently.

10.90 Most (93 percent) of the bonded labour was noticed in agriculture where even child bonded labourers were found particularly for the purposes of grazing the master's cattle. About 14 percent had received small land from the master and in 12 percent cases, bondage was due to customary reasons.

10.91 As against the aforesaid estimations, the State Government had reported 6000 bonded labourers as on 31-3-1980 and 7175 as on 31-3-90. In the latter figure, more than half (56 percent) are from Kota district. All other districts contributed less than 6 percent of the State figures each.

Tamil Nadu

10.92 Bonded labour in Tamilnadu has been noticed in the districts of Nilgiris, South Arcot, Chingleput, Coimbatore etc. In 1976, a house to house survey in Guddalu village among Paniya tribals identified 481 bonded labourers out of total population of 5667. The bond was on account of written agreement for giving some monitory advance followed by poor wages and no freedom of changing job.

10.93 The GPF survey put the number of bonded labourers at 2.50 lakh which is six percent of the State's population of agricultural labourers. The survey estimated very high (more than 20,000) number for Dharmapuri and South and North Arcot districts.

Bonded labourers in Tamilnadu are generally known as Padiyals. As per the survey, 91 percent bonded labourers belonged to Scheduled Castes, 8 percent to Backward Classes and very few to tribals.

10.94 Child bonded labour was to the extent of 11 percent and for total number, this State was next only to Andhra Pradesh and Orissa. Two percent of bonded labourers were females.

10.95 The amount of loan taken by bonded labourers varied from Rs. 30 to 4000. In Rajasthan and Tamilnadu, it was noticed that the interest on loan was paid through labour services and not through cash. Wages were however, below the statutory minimum wages.

10.96 Two other interesting features of bonded labour system were noticed in Tamil Nadu. One was that in 9 percent cases, the master was a Muslim. The second was that debt was the overwhelming reason for bondage (98 percent) and land given by the master was rarely a reason.

10.97 As against the GPF estimate, the NSSO put the number of bonded labourers for the State at 12500.

The State Government's official documents show the total number of identified bonded labourers from Tamil Nadu as 38024 of whom 25 percent were out-migrants, identified and released in the States of Andhra Pradesh, Karnataka and Madhya Pradesh.

The highest number (25950, 68 percent of State total) came from South Arcot. This included 24945 tribals released from the bonds of jagirdars of Kalyayan hills of South Arcot.

Other districts showing high prevalence were Salem (4312), Periyar (2311), Trichy (1845), Dhramapuri (1229), Dindigal (865) and Nilgiris (481).

10.98 We have the famous case study of Sri Lankan settlers kept in bondage in the coupes of Kodaikanal by a tin factory and a synthetic factory (1986) by giving them initial travel advance and a few subsistence items like blankets. For their work, they were given meagre weekly advance followed by small wages. They had to live in physical and economic misery under physical threats from their masters.

Another study has reported a widespread prevalence of bondage along Maadhiris (cobblers) in agriculture sectors in Kodai villages. In the lower hill plantations, the Paliyan tribals were found in bondage.

10.99 In non agricultural sector, we have a study about bondage of Bidi workers of Vellore which covers all members of the family including women and children. These workers take advance from the owner for raw material and get into debt trap leading to bondage.

10.100 Lastly we have a case study by Vidya Sagar (1984-85) from South Arcot where bondage among Scheduled Castes weavers who were untouchables and tribals who were not untouchables has been discussed. The loom weavers had to take loans for consumption needs from the master weavers and merchants and in the process they used to become bonded along with families. As regards bonded workers in agriculture, Vidya Sagar's study informs that they had to work for more than 12 hours a day with meagre wages. Of all 30 surveyed agricultural bonded labourers, 20 got wages (cash and kind included) of less than Rs. 2 a day and all less than Rs. 3 a day.

Uttar Pradesh

10.101 Widespread prevalence of debt bondage in Uttar Pradesh has been known since long. Indebtedness is the primary cause of bondage among rural poor. Belatedly though, the Uttar Pradesh Government made two ordinances namely, The Uttar Pradesh Scheduled Castes, Scheduled Tribes and Denotified Tribes Debt Relief Ordinance, 1964 and Uttar Pradesh Bonded Labour System (Abolition) Ordinance, 1975. The latter, Ordinance was promulgated before the Central Ordinance. However, such legislative measures were not of much help.

10.102 The GPF study in 1978-79 put the number of bonded labourers in Uttar Pradesh at 5.50 lakh which was 11 percent of the State's population of agricultural labourers. The GPF study excluded the Garhwal region and estimated prevalence of the system of bonded labour in 38 districts of the state. Of them, 7 districts were classified to be having very high incidence (above 20,000). These were Bana, Hamirpur, Hardoi, Kheri, Sitapur, Bijnore and Bareily. Of the surveyed bonded labourers, 74 percent belonged to Scheduled Castes, 14 percent to Backward Classes, 7.4 percent Muslims and 1 to 2 percent Scheduled Tribes. Ratio of women was 3 percent.

10.103 The reason for falling in bondage was noticed as debt trap in 94 percent cases, land given by the master in 37 percent of the cases, social customs and traditions in 23 percent cases and security of job/lack of ability of alternative job in 10 percent cases.

10.104 The loan taken ranged from Rs. 18 to 700. The reason for taking loan was poverty leading to distress need to loan in 33 percent cases, festive, social and customary rites (42 percent), repayment of previous loan (7 percent) and house construction (4 percent).

10.105 More than 60 percent of the bonded labourers were found below the poverty line. Also, 69 percent had no lands and 22 percent had lands upto one acre.

10.106 The masters would not allow his bonded labourer to work elsewhere even during lean agricultural season (78 percent cases).

10.107 As against the estimate of GPF, we find the NSSO survey putting the number at 31,700. The Government estimates are, however, 26155. Despite our repeated efforts, we have not been able to get district-wise details from the State Government.

10.108 We have a number of interesting case studies from different parts of the State, notably Patha region, Garhwal hills and the carpet industry in the south-eastern part of the State.

10.109 The case study from Patha (*Banda* and Allahabad) narrates the case where ineligible persons were identified by the local leadership and Government functionaries for the purposes of family planning sterilisation operations. The motive was to knock off huge sums of Government grants available under the family welfare, and bonded labour rehabilitation programmes.

The result of such malpractices was that while the Government figures of achievements in regard to both the programmes kept swelling, the bonded labour system continued to prevail.

10.110 We have another case study where a young Additional District Magistrate of the area, Shri Arun Arya, took strong action against keepers of bonded labourers in the face of tremendous social, political and administrative resistance. His strategy was to book a bonded labour keeper under as many cases and provisions of laws as possible. For example, a keeper was found having 15 bonded labourers. Against him, Shri Arya got 15 cases booked under the Bonded Labour Act. Cases were also booked against him under Indian Penal Code Section 374 (forced labour) and section 367 (Kidnapping). Cases were also booked against the same keeper under the laws relating to sexual exploitation of women.

10.111 In the hills of Uttar Pradesh, 35 IAS probationers of this Academy conducted a socio-economic survey in 1974 in the Jaunsar-Bawar Jaunpur Rawain area. It covered 5 blocks of three hill districts of Tehri, Dehradun and Uttar-Kashi. The study highlighted marginalisation and dispossession from lands of the original Kolta tribals by the immigrants, Rajputs and Brahmins. As a result, the Kolta tribals got increasingly impoverished and started taking loans from the upper caste immigrants. Through this indebtedness began the bondage of male members and gradually started including exploitation of their family members particularly women. The situation became so bad that most of the Kotla and other poor bonded labourer families started sending their young female members to the plains for prostitution to earn money to pay off part of the loan burden. The local political leaders of panchayats and lower Government officials were found hand in gloves in this racket.

10.112 In spite of the whole family struggling, such bonded labourers could not repay the usurious debt which became hereditary. The young members inherited the bondage as well. From Uttar Pradesh, we have another case study where migrant, bonded labourers were found in bond of contractors in construction works of private as well as in government concerns. An activist organisation had to move the Supreme Court to get them released. The Supreme Court appointed the District Judge of Tehir who reported the workers' most pathetic work and economic conditions. He also reported that no labour law was being followed and the local labour and revenue officials were colluding in inflicting the misery on poor bonded labourers. We have reported the case of child workers in carpet industry, one estimate putting their number at one lakh in the Mirzapur-Varanasi-Allahabad belt. These children are kept in bondage, tortured and made to work for 12 to 16 hours with very little wages and facilities. All laws relating to child labour were found being openly flouted in this industry. The parents of such children on account of poverty remain silent spectators and even participants to the crime. Because of the totally ineffective administration, many loom owners have started openly declaring such children as bonded labourers with a view to knock off the relief and rehabilitation grants in collusion with government functionaries.

Our study has reported cases of child workers bordering on bondage in the pottery industry of Khurija.

Bonded labour in Uttar Pradesh is found prevalent in other sectors also like stone-quarries, brick-kilns and cottage industries.

West Bengal

10.113 The GPF did not include West Bengal in its survey though it hinted that areas adjoining Bihar could have traces of this problem. The NSSO survey, however, put the number of bonded labourers for this state at 21600.

10.114 The State Government has reported to us that no bonded labour system existed in the State after 1975; however, the Vigilance Committees have been constituted at the district level.

10.115 Our study has reported prevalence of bondage among poor people in Purulia district particularly Ayodhya hills. This district has large population of Scheduled Castes and Scheduled Tribes (10 lakh out of total 16.5 lakh population), who get agricultural labour work for only 3 months in a year. On account of lack of employment opportunities, they have become impoverished. Therefore, they have been forced to take loans by pledging their own services, self and even family members. At times, the bondage becomes lifelong and even inter-generational.

10.116 Another form of bondage particularly for girls from poor families is noticed in the custom of Nachini (dancers). Nachini girls are from poor families and are "purchased" by affluent people for pleasure purposes.

11. RELEASE OF IDENTIFIED BONDED LABOUR

11.1 After identification, the bonded labourers are expected to be released immediately. However, as is brought out in our Report, many States have been taking a long time in securing release of the identified bonded labourers. As reported in Volume II of our report, out of the total number of 242618 bonded labourers identified as on 31-3-1989, 4.6 percent were yet to be released. In terms of percentage as well as numbers, the largest default was from Karnataka (6289, 10 percent). The other states lagging behind in this regard were Orissa (2293, 5.0 percent) and Bihar (1107, 8.9 percent). A number of reasons have been given for this gap. These are summarised as follows:-

1. Some of the bonded labourers had, after identification, migrated / were sent to their home-sates and, therefore, the local authorities were not able to follow up their release.
2. Some bonded labourers were wrongly identified.
3. Some names were duplicated, which had inflated the figures.
4. Some of the cases are pending in courts which delays the release.

11.2 While these arguments would take care of the delay in release to some extent, a more sincere effort in this regard is still called for. Even where cases are pending in courts, the Administration should attempt at securing the release of the bonded labourers from bondage under the Bonded Labour System (Abolition) Act, 1976.

11.3 The Annual Report (1989-90) of the Ministry of Labour, Government of India clubs the number of bonded labourers identified and released together. It would give an impression that the government has ceased to differentiate between identification and release. This is likely to cause a neglect of keeping track of the efforts for release. It is advisable that in the reporting formats the Government of India should also monitor the time lag between identification and release.

11.4 In respect of Andhra Pradesh, all the 33954 bonded labourers identified have been reported to be released. But if we compare this figure with the number of bonded labourers rehabilitated, we find that a large number (9685) are yet to be rehabilitated. It would imply that the release has been only on paper for these large numbers of bonded labourers. Therefore, it would be appropriate for the State Government to analyse the cause behind this fact and ensure meaningful release of the identified bonded labourers. However, the efforts of the State Government to systematise the process of securing prompt release of identified bonded labourers in this State has shown many positive features. Unfortunately these efforts lacked continuity.

11.5 Not only in Andhra Pradesh but almost in all the States, awareness among the bonded labourers for securing their release needs a multi-dimensional strategy. On the one hand the State Governments have to give wide publicity through mass media and through official machinery to expedite the pace of securing release, at the same time training programmes for Government functionaries, at lower as well as higher levels need to be organised in a much bigger and systematic way. Association of Panchayat Raj Institutions (PRIs) and the Non-Governmental Organisations (NGOs) working for this cause has also to be arranged in a more systematic way. This would on the one hand help faster release after identification of the bonded labourer and on the other hand would ensure that he does not relapse into bondage once again.

11.6 In the State of Bihar, the official figures state that but for a very small number (0.2 percent), all other bonded labourers have been released as well as rehabilitated. In securing their release, a variety of agencies have been associated. These include institutions like the National Labour Institute, a number of Non-Governmental Organisations and, most notably, the Supreme Court.

11.7 In Gujarat, only 64 bonded labourers have been identified though the various agencies including the Commissioner for Scheduled Castes and Scheduled Tribes had been insisting about the prevalence of this practice in the State. By and large the bonded labourers in this State are migrant labourers from other States. This feature imposes a special responsibility on both the State Governments as well as on the Central Government not only to identify but also to secure their prompt release.

11.8 Haryana State offers striking examples on different aspects relating to the bonded labour system and its abolition. Though the NSSO had already reported existence of an estimated number of 12,900 bonded labourers in this State way back in 1978, yet the State Government consistently denied existence of the same.

It goes to the credit of Non-Government organisations, notably, Swamy Agniwesh of Bandhua Mukti Morcha and Dr. Mahavir Jain, who not only started a struggle to secure release of a large number of bonded labourers in the stone mines, quarries and brick kilns of this State but, also ensured that these identified bonded labourers were released from their bondage. Almost all the bonded labourers identified and released in this State were migrant labourers, generally tribals, from Rajasthan and Madhya Pradesh. In Haryana also, like in Bihar, the Apex Court of the country had to repeatedly intervene to ensure release of these bonded labourers because of indifference of the Government in the matter.

11.9 As reported earlier in Table 1.3 of Vol II, Madhya Pradesh State was yet to secure release of 559 out of 10,895 bonded labourers identified as on 31-3-89. Though only a small number remained to be released, yet the fact that only 7,554 of the released bonded labourers could be rehabilitated, indicates the need to review the stand of the State government regarding number of bonded labourers released. This is a case similar to that of Andhra Pradesh. If a bonded labourer is not rehabilitated for several years after release, he is very likely to relapse into bondage. The case of Guna district reported in 1986 where migrant bonded labourers released from the stone-quarries of Kota in Rajasthan were not accepted by the district of Guna is a sad story. The Guna district administration reportedly refused to believe the certificates issued by the Rajasthan Government. The plight of such 'released' bonded labourers becomes absolutely miserable.

11.10 Like in Bihar, it is noticed in the case of Madhya Pradesh also, that the Supreme Court had to intervene on several occasions to secure release of bonded labourers from bondage in some of the districts. We also notice several instances of delay and slackness in rehabilitation efforts in this State which is the most likely cause of relapse of released bonded labourers into bondage.

11.11 The North-Eastern States of Arunachal Pradesh, Nagaland, Sikkim, Manipur and Tripura and the Himalayan States of Jammu & Kashmir and Himachal Pradesh besides the State of West

Bengal have reported no incidence of bonded labour in their States.

11.12 In respect of Orissa, the information sent by the State Government indicates that out of the 49,824 bonded labourers identified till 31-3-90 all except 92 have been released. However, if we examine the annual physical targets vis-à-vis achievements regarding rehabilitation, we find low performance in the years 1983-84 (83.1 percent), 1984-85 (49.5 percent) and 1985-86 (72.0 percent). This indicates a time lag in securing effective release of the identified bonded labourers.

11.13 In the State of Karnataka, the number of bonded labourers identified but not yet released (6289) was the highest in the whole country. It is difficult to justify this large number. However, it could be said to the credit of the State of Karnataka that the work of release of identified bonded labourers was carried out without violence in almost all the cases. One reason for this smooth operation of this task of release could be the near simultaneous implementation of the Land Reforms Act, particularly the tenancy reforms. The amended Land Reforms Act of Karnataka which was brought into force from 1-3-1974, had already initiated the process of conferment of occupancy right over tenants. The definition of tenant included 'deemed tenant', i.e. a person whose name did not appear in the land records but who was found, after local inquiry, to have been cultivating someone else's land. By the time the Bonded Labour (System) Abolition Ordinance/Act was promulgated, a large number of tillers who constituted the bulk of bonded labour system in agriculture sector, had already approached the concerned land tribunals for grant of occupancy right over the land they were tilling. This automatically took care of their release from bondage. Since the landlord had already started reconciling to the fact of loss of the ownership of the land in favour of the tiller, he could not resist release of the same tiller from bondage.

11.14 All the same, it is recommended that the Government of Karnataka launches a special drive to get the remaining bonded labourers released and properly rehabilitated. It may be relevant to state here that even out of the 56400 released bonded labourers, a large number, namely 3632, are yet to be rehabilitated. Therefore, release of the remaining bonded labourers and their meaningful rehabilitation to prevent them from relapsing into bondage is urgently called for in this State.

11.15 In Kerala, of the 823 identified bonded labourers, 710 have since been released. However, as reported in the 24th Report of the Commissioner for Scheduled Castes and Scheduled Tribes pertaining to years 1975-76 and 1976-77, though 702 bonded labourers identified in this State till 31-3-77 had also been released but only 186 had been rehabilitated by that date. The slow pace of rehabilitation casts the shadow of doubt on the effectiveness of the State's claim about release. All the same, there are no reports of continuing prevalence of the system of bondage in this State.

11.16 In Maharashtra State, the bonded labourers had to wait for intervention of voluntary organisations, particularly the Vidhayak Sansad, Thane and Shramjeevi Sanghthana, for bringing the fact of prevalence of bondage to light and to secure release of the identified bonded labourers. As on 31-3-89, the total number of bonded labourers identified in this State was 1331. Out of this, 951 were reported to have been rehabilitated by that date. All the expenditure for their rehabilitation was incurred during the year 1985-86. The fate of the remaining identified labourers seems to be hanging in precarious condition.

11.17 As regards Rajasthan, all the 7127 bonded labourers identified as on 31-3-89 had been released except for a small number of 12. All the released bonded labourers, except one, have also been rehabilitated. The rehabilitation efforts have largely been completed during the years, 1978-81. One can say, therefore, that release of the identified bonded labourers has been reasonably effective and prompt in this State. The efforts of voluntary organisations particularly the Bonded Labour Liberation Front of Swami Agniwesh and Prayas, among others, deserve to be mentioned in the field of the release of the identified bonded labourers in this State.

11.18 In Tamil Nadu, as on 31-3-89, all except 718 bonded labourers out of the total number 37965 of bonded labourers identified, have since been released. Most of the bonded labourers were found in South Arcot district. Besides bonded labourers were also identified in the districts of Dindigal, Periyar, Trichy and Nilgiris. According to the Report of the Tamil Nadu Government, 9619 labourers belonging to Tamil Nadu kept in bondage in other States have also been identified and except for 1329, all of them have since been rehabilitated. The State of Tamil Nadu has shown a special feature of deputing its officials to other States to secure the release of bonded labourers who hailed from Tamil Nadu. The efforts of some Government servants, especially Shri Gurnihal Singh Pirzada, in securing the release of bonded labourers deserves to be commended. Manu voluntary organisations have been working for the cause in this State. Tamil Nadu thus offers a picture of combined efforts of Governmental and Non-Governmental agencies to secure release of identified bonded labourers.

11.19 Uttar Pradesh was the first State to have initiated laws relating to the operation of bonded labour system after independence. According to official reports, all the 26155 identified bonded labourers have been released as on 31-3-89. However, a small number, namely 101, are yet to be rehabilitated. In this State a number of voluntary organisations and activists conducted the struggle to secure release of identified bonded labourers in the hill districts as well as in some districts of the plains like Banda, Allahabad, Varanasi and Mirzapur. In hill districts, the process of release has been completed with the efforts of a variety of people / organisations. However, in the plains, particularly in the carpet industry of Varanasi, Mirzapur and nearby areas, securing the release of child labourers is turning out to be a Herculean task. There have been instances of 'release' of bogus bonded labourers in U.P. at the behest of vested interests and government functionaries to siphon off rehabilitation grants.

11.20 All in all, one could say that though a variety of agencies working within and outside the Government could help in identifying the incidence of bonded labour in different parts of the country, the task and authority for securing their release rests upon and vests with the State Governments alone. However, it is being noticed in a large number of cases that the bonded labourers have to depend for their release on activists and Non-Governmental Organisations. Political will is obviously a necessary condition for the Governments to act in this behalf. However, this itself would not be sufficient. In addition, the Panchayat Raj Institutions would have to be motivated and involved in the task. A lot of training inputs are required for the Government functionaries at various levels in this regard. The representatives of the people, particularly the members of the Panchayat Raj Institutions and even the legislators need to be trained and motivated in a similar way. All these efforts have to be matched with mass awareness among the bonded labourers themselves. This awareness would come by a determined effort and well defined strategy launched by the State and Central Governments. Monitoring of the efforts for securing release is also a necessary requirement. It would be worthwhile if the State and Central Governments keep track of every individual identified as a bonded labourer and ensure that he is released and immediately rehabilitated without any loss of time.

11.21 It would be necessary to make the released bonded labourer aware about the fact and consequences of his release from bondage. It was noticed in some cases that the freed bonded labourer was not aware of the fact of his release which situation encourages unscrupulous Government officials to siphon off the funds. Such a situation would also give chance to the landlords to continue to keep the 'released' bonded labourers in bondage.

12. VIGILANCE COMMITTEES

Under Section 13 of the Bonded Labour System (Abolition) Act, 1976, every State Government should, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and in each sub-division as it may think fit. Each Vigilance Committee constituted for a district as well as a sub-division is expected to have the following members:-

12.1 (a) **District Vigilance Committee**

- (i) The District Magistrate or his nominees as chairman;
- (ii) Three persons belonging to Scheduled Castes / Tribes, nominated by the District Magistrate;
- (iii) Two social workers nominated by the District Magistrate;
- (iv) Upto three persons to represent the official or non-official agencies connected with rural development, nominated by the State Government; and
- (v) One person to represent the financial and credit institutions, nominated by the District Magistrate.

12.2 **(b) Sub-Divisional Magistrate Vigilance Committee**

- (i) The Sub-Divisional Magistrate, or his nominee as chairman;
- (ii) Three persons belonging to Scheduled Castes / Tribes, nominated by the S.D.M.
- (iii) Two-social workers, nominated by the S.D.M.
- (iv) Upto three persons to represent the official or non-official agencies connected with rural development, nominated by the District Magistrate.
- (v) One person to represent the financial and credit institutions, nominated by the S.D.M.; and
- (vi) One officer authorised under section 10 for implementing the provisions of the Act.

12.3 **The functions of each Vigilance Committee are enumerated in Section 14 of the Act, These are as follows:-**

- (i) To advise the District Magistrate or any other officer nominated by him about measures taken to implement, the provisions of the Act;
- (ii) To provide for economic and social rehabilitation of the freed bonded labourers;
- (iii) To organise flow of adequate credit to the freed bonded labourers;
- (iv) To monitor the number of offences of which cognizance has been taken under this Act;

(v) To make a survey as to whether any such offence is being committed and;

(vi) To defend any suite instituted against a freed bonded labourer.

12.4 Thus we see that the Vigilance Committees are expected to perform very important functions. In some cases like in Jabalpur (MP), the Vigilance Committees have not only been meeting almost regularly but have also done excellent job in identifying and rehabilitating the bonded labourers. Our study indicates that these committees could also help the society in general and the Government and the bonded labourers in particular in a variety of other ways as well. These could be listed a follows:-

(a) The Vigilance Committee if properly activated, could help in timely detection of fresh cases of bondage.

(b) They could help in monitoring prompt release of the bonded labourer after his identification either by the committee or by any other individual or agency;

(c) The Vigilance Committee could ensure effective rehabilitation of released bonded labourers by associating themselves at various stages of rehabilitation of such bonded labourers. These stages would include preparation of individual rehabilitation schemes, implementation of the rehabilitation schemes and follow-up actions after the scheme is implemented;

(d) If they are closely associated with all the aspects connected with rehabilitation, the Vigilance Committee could become powerful source of providing effective rehabilitation to the released bonded labourers by becoming a store-house of knowledge and experience in the field;

(e) Since we notice that the activists and NGOs working for the cause of the bonded labourers are not generally getting sufficient support and response from the Government authorities, the Vigilance Committees could be developed into an effective mechanism of providing recognition and encouragement to such NGOs and activists;

(f) The Vigilance Committee could also be converted as a catalytic agent for organising the bonded labourers at various stages namely, pre-identification, during identification and release, during rehabilitation and during post-rehabilitation periods;

(g) The Vigilance Committee could also be effectively utilised in creating mass awareness using a variety of methods and media regarding the various provisions of the Act and the Schemes for Rehabilitation;

(h) We notice that the efforts of the Government in implementing the various provisions of the Act and the various rehabilitation programmes depend largely on the interest taken by individual officers. Such a system lacks continuity. The Vigilance Committee could effectively replace dependence on individuals and provide continuity to the attempts of the State and Central Governments in implementing the various provisions of the Act and the rehabilitation schemes.

12.5 Though the Vigilance Committees are a very potent mechanism as described above, yet we noticed in our study that by and large they have not been able to function effectively. These impressions are summarised as follows:-

(i) In some States like Bihar, Orissa , Uttar Pradesh and Madhya Pradesh, Vigilance Committees have been constituted at various points of times in many of the districts. In other States also Vigilance Committees have been constituted from time to time for various districts and sub-divisions. States like West Bengal and Assam have set-up Vigilance Committees at district level even though they have not found incidence of bonded labour ever since the promulgation of the Ordinance/Act. However, the general pattern is that these committees are constituted for a period of couple of years and after lapse of the duration they are not re-constituted for a long time. This breaks the continuity of the system;

(ii) Even where the Vigilance Committees are constituted, in a large number of cases we noticed that the meetings of these committees were not being held regularly. There are instances in the States of Orissa, Bihar and also in some of the districts of a few other States where the Vigilance Committees were meeting with some regularity. In Karnataka, after the formation of the Zilla Parishads afresh in 1987, some of the districts have constituted district level Vigilance Committees with a high level peoples' representative like the Upadhyakhsha of the Zilla Parishad as chairman and some Zilla Parishad members as members. This is a welcome feature. But, by and large, we notice that most of the States which have high incidence of bonded labour system were yet to activate the Vigilance Committees;

(iii) Our report has received information directly from district authorities only in few cases, that too largely through the IAS probationers, though also through Zilla Parishads and districts collectors in some cases. By and large, we have relied on the Reports of the State Governments. These reports indicate that the State Governments do not appear to be monitoring the functioning of these committees closely;

(iv) We also get an impression that since last couple of years, fresh identification of bonded labourers has almost stopped. The Vigilance Committees have also concurrently become nearly dormant. This is not correct. The State Governments should, as is done in case of States like West Bengal and Assam, keep the Vigilance Committees active even though fresh incidences are not reported. This would help in fresh identification and also in monitoring the rehabilitation programmes;

(v) Representation on the Vigilance Committees to activists and NGOs working in the area for the cause of the bonded labourers has been given only in very few cases. A large number of districts have reported that no NGOs was working directly with the bonded labourers and on this ground the NGOs have not been given representation on these committees. On the one hand the activists / NGOs would be encouraged by getting associated with these committees, while on the other hand the committees would also benefit a lot by the experience and knowledge of the activists and NGOs. Even where no activists / NGOs have been found working for the cause of bonded labourers, it would be advisable to nominate a suitably articulate released bonded labourer as a member of the Committee. It would be still better if the released bonded labourers are organised in suitable groups, made to elect a leader and such leader is given representation on the Vigilance Committee of his area.

(vi) Since we notice that re-constitution of Vigilance Committees takes time in many cases, it would be advisable to provide for continuation of existing Committee until a new Committee is constituted. This would be helpful in providing continuity.

13. PROSECUTION OF OFFENDERS

13.1 Chapter VI of the Act provides for punishment to such persons who compel any other person to render any bonded labour and who abets any offence punishable under this Act. The State Governments have been authorised to confer on Executive Magistrate, the powers of a Judicial Magistrate of the First Class or of the Second Class, for expeditious disposal of the criminal cases filed against the keepers of bonded labourers. However, our report finds that even though the total number of bonded labourers officially identified in the country is as high as 2,42,618, a very small number (773) of keepers of bonded labourers were arrested, punishments were awarded to still smaller number after conviction.

13.2 In the case of Andhra Pradesh, 144 persons were arrested and 60 punished. In the case of Bihar, the latest picture received by us states that 277 cases were filed in various courts against the keepers of bonded labourers. Out of these cases, only 92 resulted in conviction and 137 in acquittals. Out of the persons convicted, only 17 were imprisoned. The total amount realised as fine was Rs. 25,600.

13.3 Karnataka State, which showed the highest number of bonded labourers identified (62,689), had only 141 persons arrested. Conviction was finally obtained only in 58 cases and in no case was imprisonment awarded.

13.4 In States like Gujarat, Haryana and Kerala, though a significant number of bonded labourers was identified, very few prosecutions were launched and, to our knowledge, nobody has been convicted so far.

13.5 In Madhya Pradesh, 100 arrests were made and 146 persons punished so far. Out of these 146 punishments, 39 were imprisonments, 82 fines and 25 fine plus imprisonments.

13.6 In Maharashtra, where the Shramjeevi Sanghthana identified and secured release of a large number of bonded labourers in areas in and around Thane, the case of Vasai Court needs mention. This case, wherein imprisonment as well as fine was awarded to the keeper of bonded labour, was perhaps the first case of conviction with imprisonment in Maharashtra. According to the information available with us, the total number of arrests made in this state was 229, which was highest in any state of India as on 1-4-1988. However, most of these cases (177 out of 229) were pending in courts.

13.7 From Orissa, we have received information regarding prosecution from the State Government as on the 31st December 1989. The total number of cases registered under this Act in the whole State was 9992, perhaps the largest in the country. The number of offenders involved was 604. Conviction was obtained in 64 cases resulting in fines of Rs 5.29 lakh. It is interesting to note that in no case of conviction, imprisonment was awarded. The second interesting feature of Orissa is that more than 90 percent cases (9137 out of 9922) were registered in the district of Koraput alone. Likewise, out of the total amount of Rs. 5.29 lakh realised as fine, Rs. 5.19 lakh was from Koraput alone.

13.8 From Rajasthan, we have the latest information through the letter dated 1-8-1990 of the State Government. According to this information, a total of 1751 cases were registered under the Act. But, in 1987, the State Government took a decision to withdraw these cases. As of now, 46 cases are registered, mainly in the districts of Kota (14), Bundi (11) and Jhalawar (8).

13.9 From Tamil Nadu, we have the information regarding prosecutions. Only two cases were registered and a sum of Rs. 500 as fine and 'imprisonment till the rising of the court for each of the two offenders were awarded by the concerned Magistrate.

13.10 In Uttar Pradesh, 3456 cases were filed under the 1976 Act but only in 20 cases punishment was awarded. In the hill districts of the State, where the system of bonded labour was recognised more than two decades age, not a single conviction has taken place so far.

13.11 We may like to specially mention the approach initiated in Patha (Bandha-Allahabad) Region by a young and dynamic Additional District Magistrate, Shri Arun Arya. His approach was to book the offenders under as many cases and as many provisions of law, as possible. For example, if a keeper was found keeping 15 bonded labourers, not one but 15 separate cases would be booked against him under the Bonded Labour System (Abolition) Act, 1976, besides cases under Section 374 (forced labour) or and 367 (kidnapping and unlawful confinement) under Indian Penal Code. Cases would also be booked for exploitation of women. Such a massive legal onslaught on some of the perpetrators of this crime would be a definite deterrent to many others.

13.12 We also noticed cases where keepers of child bonded labourers openly declare having such bonded labourers and got them released and rehabilitated, siphoning off the rehabilitation grants in collusion with government officials. The keepers could do this so openly because they had no fear of getting prosecuted.

13.13 It appears that the State Governments as well as the statutory authorities have either got a soft corner towards the offenders under this Act or the authorities are not sufficiently motivated to invoke the penal provisions. Our discussions with some authorities revealed that they were more interested in securing the release and rehabilitation of the bonded labourers than in prosecuting the keepers of the bonded laoburers.

13.14 Prosecution of offenders should go hand in hand with the identification of the bonded labour. However, in reality, prosecutions have been very rare. Making a law and not enforcing it is not justifiable. Professor V. K. Gupta of the Academy, who studied the situation in Palamau district of Bihar recently, felt strongly about the long term repercussions of administrative laxity in implementing the various provisions of the Act. His words are quoted below:-

"........... the situation in Palamau seems to have deteriorated to such an extent that villagers have started regarding Naxalites as natural friends and administration and landed aristocracy as natural foes. If the administration does not wake up soon to the impending dangers it may lead to disastrous consequences."

13.15 Now that more than one and a half decades have passed since most of the instances of keeping bonded labour were identified, one wonders if it would be prudent to pursue such cases. However, the State Governments should come out heavily on fresh cases of keeping of bonded labourers. The Central Government should also take up this matter in right earnest.

14. REHABILITATION OF BONDED LABOUR

14.1 The responsibility for rehabilitation of released bonded labourers rests with the State Governments who are the implementing authorities under the Bonded Labour System (Abolition) Act, 1976. According to the Annual Report 1989-90 of the Ministry of Labour, Government of India, New Delhi, the incidence of bonded labour has been reported from 12 states, namely Andhra Pradesh, Bihar, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan. Tamil Nadu and Uttar Pradesh. All the identified bonded labourers in Kerala. Gujarat and Haryana have been rehabilitated. The total number of bonded labourers identified and freed as on 31-3-1989 was 242618 out of whom 210091 had been rehabilitated. About 11485 are not available for

Table-3

State-wise details regarding release and rehabilitation of bonded labour, as on 31-3-1989

Sl. No.	Name of the State	Number of bonded labourers	
		Identified & Released	Rehabilitated
1.	Andhra Pradesh	33,954	24,262
2.	Bihar	12,388	11,270
3.	Karnataka	62,689	50,768
4.	Madhya Pradesh	10,895	7,554
5.	Maharashtra	1,331	951
6.	Orissa	48,750	44,751
7.	Rajasthan	7,127	7,037
8.	Tamilnadu	37,965	36,536
9.	Uttar pradesh	26,155	26,054
10.	Kerala	823	823
11.	Haryana	477	21*
12.	Gujarat	6464	
	Total	**2,42,618**	**2,10,091**

*Others are not available for rehabilitation in the state of Haryana.

Source: Annual Report (1989-90) of Ministry of Labour, Government of India, para 9.15 to 9.25.

rehabilitation. A statement showing the statewise position is given in Table 3.

With a view to supplementing the efforts of the State Governments, the Ministry of Labour launched a Centrally Sponsored Scheme from 1978-79 under which the State Governments are provided Central financial assistance on a matching grant (50:50) basis for rehabilitation of bonded labourers. The Scheme originally envisaged provision of financial assistance upto a ceiling limit of Rs. 4000 per bonded labourer which has since been enhanced to Rs, 6,250 with effect from 1-2-1986. The rehabilitation scheme can be either land-based or animal husbandry based or skill/craft based depending upon the aptitude, skill and preference of the beneficiary. A statement showing the amount of money released to various state governments under the Centrally Sponsored Scheme is given in Table-4 (see page no. 111-112).

14.2 During the financial year 1989-90, the Ministry of Labour, Government of India, in consultation with the State Governments, fixed a target of rehabilitation of 13,687 bonded labourers in respect of 9 states, Viz, Andhra Pradesh, Bihar, Karnataka, Tamil Nadu, Madhya Pradesh, Maharashtra, Orissa, Rajasthan and Uttar Pradesh. As against this, the State Governments have reported rehabilitation of 3030 bonded labourers during this period from April, 1989 to November,1989.

14.3 An outlay of Rs. 15 crores had been provided for this Centrally Sponsored Scheme in the Seventh Plan. An amount of Rs. 161 lakhs (representing the Central share of assistance) had been provided in the Revised Estimates for the Annual Plan 1989-90. The entire amount was released to the State Governments.

15. SCHEME FOR INVOLVEMENT OF VOLUNTARY AGENCIES

15.1 As envisaged in the 20 point programme, 1986, a new Plan Scheme titled "Grants-in-aid to Voluntary Agencies in the Identification and Rehabilitation of Bonded Labourers" has been in operation since 30-10-1987. The modalities and guidelines for implementation of the Scheme have been circulated to all State Governments and Union Territories. According to the guidelines issued to the State Governments / Union Territories, the selection of voluntary agencies would be done by the Council for Advancement of People's Action and Rural Technology (CAPART) or by the concerned State Governments. Voluntary agencies would be paid managerial subsidy of Rs. 5000 per annum. In addition, they will be paid Rs. 100 for each release order, in excess of 20, secured in a year subject to the condition that the total amount of subsidy and the amount for release orders will not exceed Rs. 10,000 in a year. This money is given to the

Table-4

tatement showing the amount of money released to various State Government

Sponsored Scheme. (Ru

Name of the State	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84
2	3	4	5	6	7	8
Andhra Pradesh	20.00	17.73	19.17	24.14	41.19	-
Bihar	14.28	6.62	22.34	9.03	6.58	64.94
Gujarat	-	-	-	-	-	0.39
Haryana	-	-	-	-	-	-
Karnataka	10.28	7.14	125.15	84.17	8.11	114.14
Kerala	1.65	0.60	-	1.52	-	5.76
Madhya Pradesh	17.00	-	-	0.65	1.36	1.07
Maharashtra	-	-	-	-	-	-
Orissa	5.11	1.00	10.22	90.62	130.23	7.67
Rajasthan	14.00	10.53	10.35	0.36	1.91	4.15
Tamil Nadu	5.32	-	1.70	1.00	1.72	0.30
Uttar Pradesh	10.00	10.00	10.00	38.24	77.95	18.65
Total	**97.64**	**53.62**	**198.93**	**249.73**	**269.05**	**217.07**

for rehabilitation of released bonded labourers under the Centrally
ees in lakh)

1984-85	1985-86	1986-87	1987-88	1988-89	1989-90	TOTAL
9	**10**	**11**	**12**	**13**	**14**	**15**
83.16	132.41	93.47	-	-	-	431.27
27.52	2.26	47.69	8.17	6.19	-	215.62
-	0.56	0.06	-	-	-	1.01
0.42	-	-	-	-	-	0.42
49.10	80.92	278.09	-	203.97	102.00	1063.07
-	-	-	-	-	-	9.53
1.50	-	-	-	-	58.19	79.77
-	8.25	-	-	-	-	8.25
302.44	70.03	66.98	84.02	18.50	-	786.82
0.77	3.16	0.89	1.00	0.75	0.81	48.68
4.20	3.52	-	-	-	-	17.76
60.59	93.79	101.08	47.88	-	-	468.18
529.70	**394.90**	**588.26**	**141.07**	**229.41**	**161.00**	**3130.38**

voluntary agencies to meet their administrative expenses in various activities relating to bonded labour.

15.2 The expenditure under the Scheme is to be shared equally by the respective State Government and the Central Government. The Central share would be passed on to the voluntary agency concerned. The State share will be obtained either by the voluntary agency or by CAPART from the State Government. The modalities of this Plan Scheme are being modified on the basis of certain suggestions made by the CAPART.

15.4 Amounts of Rs. 1.00 crore and Rs.10.00 lakhs have been provided in the Revised Estimates for the Schemes during the Seventh Plan (1985-90) and Annual Plan (1989-90) respectively. A sum of Rs. 2500 as a managerial subsidy has been released to one voluntary agency identified by the Government of Madhya Pradesh.

16. STATE-WISE ANALYSIS REGARDING REHABILITATION

Andhra Pradesh

16.1 In Andhra Pradesh, we notice that 9,685 bonded labourers out of the total number of 33,954 identified were not yet rehabilitated as on 31-1-90. This is a very large number and calls for special efforts on the part of the State Government in this regard.

16.2 In respect of such released bonded labourers also who have been rehabilitated, their number being 24,269 we get a mixed picture for rehabilitation. The total amount released to Andhra Pradesh as Central share for rehabilitation of released bonded labourers as on 31-3-1990 was Rs. 4.31 crore. The per capita amount comes to Rs. 1,777 which is well below even the older norms of Rs. 2000. On the one hand the amount provided per person under the Centrally Sponsored Scheme (CSS) itself is insufficient, on the other hand most of the States including Andhra Pradesh have not been providing even this sum.

16.3 To make up for the deficiency in providing adequate rehabilitation, the State Government repeatedly advised its district officers to integrate the other development programmes like IRDP, Rural Housing Schemes, Primary Education Programmes etc, with the CSS. However, except in very few cases, such integration was not achieved.

16.4 It goes to the credit of Andhra Pradesh Government to have drafted a unique scheme of purchase of land for the released bonded labourers, developing it for agricultural purposes and even sinking irrigation wells on such lands out of Special Component Plans Funds. Land based rehabilitation is by and large effective and liked by most rural poor. The Andhra Pradesh Government also directed the District Collectors to grant available cultivable Government lands and land ceiling surplus lands to released bonded labourers at par with landless agricultural labourers. However, the scheme of purchase and developing private lands on behalf of the released bonded labourers is highly appreciable.

16.5 Though some districts like Medak in Andhra Pradesh prepared good schemes for rehabilitation, in most of the cases we notice a lack of adequate integration of various available schemes. We also notice large time lag between release and rehabilitation. Though we do not have cost benefit analysis of the various rehabilitation schemes implemented in the State, some of the available studies like that of Chakravarty and Das in Rangareddy district suggest that the rehabilitation schemes were giving meager returns.

16.6 Andhra Pradesh has also shown delay in submitting the utilisation certificates to the Central Government in respect of the funds received under the Centrally Sponsored Schemes for rehabilitation of bonded labourers. Such delays in submission of UCs leads to a chain reaction of delays in release of grants. The ultimate sufferers are the released bonded labourers. The scheme of Honorary Rural Organisers (HROs) has also not been properly utilised in this State. Even the honorarium was not paid for months to the HROs. The institution of HROs could be very fruitfully utilised, if given sufficient thought and support.

Bihar

16.7 In Bihar, the latest picture states that of the 11,378 released bonded labourers, 99.8 percent have been rehabilitated. In this State, the State Government has made strenuous efforts from time to time in providing timely and adequate rehabilitation to the released bonded labourers. However, the practice of bonded labour is very deeply entrenched in the social fabric of the State and the intentions of Government to eradicate this system has met with success only partly.

16.8 All the same, certain features of the policies / schemes of the State Government need to be appreciated. For example, the social security pension scheme, providing a monthly pension of Rs. 30/- per month to each bonded labourer immediately after identification is commendable. However, the amount fixed in 1982, needs to be enhanced.

16.9 In the year 1982, the Government of Bihar devised a special scheme to integrate all development programmes / schemes including land grant, for providing an effective package of rehabilitation to the released bonded labourers. This scheme also provided that released bonded labourers belonging to Scheduled Castes would be provided, in addition to the amount of Rs. 4000 available under the CSS, an amount of Rs. 4000, (subsequently enhanced to Rs. 6,250). This additional amount was to come from a special scheme. In addition, the Government directed the field functionaries to include benefits under IRDP, Rural Housing Scheme. Rural Employment Programmes etc., also in the package of rehabilitation measures for released bonded labourers. Unfortunately, we have not been able to get feed back regarding the extent and impact of implementing these guidelines. However, the strategy of Bihar Government needs to be evaluated and emulated.

16.10 Many districts in Bihar particularly Nawada, Palamau and Samastipur, have Successfully experimented with CSS. Palamau district in Bihar has also made a very innovative scheme for rehabilitation of child bonded labourers released from the carpet industry of U.P. This rehabilitation scheme includes residential schools for these children and also training them in carpet weaving etc., besides providing them Mid-day Meal, free school uniforms, text-books and so on.

16.11 The role of Non-Government Organisations in identification, release and Rehabilitation of bonded labourers in Bihar is also worth noting. Soon after the promulgation of the Ordinance / Act, the National Labour Institute organised Rural Labour Camps during 1976-78 in different parts of Bihar to make the bonded labourers aware about the provisions of the Act and the rehabilitation schemes. These efforts should have been supplemented and followed up by Government support. Though we do not have an exact picture of the socio-economic conditions of all the bonded labour families who participated in these camps, yet in some cases we notice that they have not been able to prosper. For example, in Semra village (Palamau district), Prof. V. K. Gupta of our Academy who visited in 1989, found the socio-economic conditions of the released bonded labourers not very happy.

16.12 Bihar is among those States where bonded labourers continued to live under physical, social and economic threats from their ex-land-lords. Effective social, psychological and economic rehabilitation of released bonded labourers is, therefore, very necessary in this State.

16.13 There have been cases of wrong identification of bonded labourers in certain districts (for example West Champaran) of the State. This was done presumably by unscrupulous field functionaries of the Government at the behest of vested interests in the area mainly to siphon off the rehabilitation grants.

Gujarat

16.14 In Gujarat, we noticed that the State Government has not taken much interest in the issues concerning bonded labour. So far 64 bonded labourers have been identified and rehabilitated. The total Central share released for their rehabilitation is Rs. 1.01 lakh which per capita comes to Rs.1578. This sum is quite meagre for an effective rehabilitation. We have not come across any special efforts from the State Government in rehabilitation of bonded labourers.

Haryana

16.15 According to the very recent response received by us from the Government of Haryana, 544 bonded labourers have been identified in this State till 31-3-90. Out of them only 21 have been rehabilitated by the State Government. The total Central share released for their rehabilitation was Rs. 42,000 which works out to Rs. 2000 per capita. The remaining bonded labourers have been sent away to their respective States of origin. We noticed that the incidences of bonded labour in this State are predominantly migrant in character. The State Government should take follow up measures for ensuring that such bonded labourers are rehabilitated properly in their respective Home States

Himachal Pradesh, Jammu and Kashmir, North Eastern States and West Bengal

16.16 The information collected by us in respect of these States indicates that there has been no incidence of bonded labour in any of these States. However, the Commissioner for Scheduled Castes and Scheduled Tribes, in his 24th Report pertaining to the years 1975-77 states that three bonded labourers had been identified and released in Mizoram. Further details in this regard are not available. The Commissioner in his Report for 1979-81 mentions the complaints he received about migrant Bihari labourers from Bihar working in the brick fields of Tripura under conditions of bondage. However, the Tripura Government took prompt action to get them released, gave them their wage dues and arranged to reach them to their home district in Bihar.

Karnataka

16.17 The number of bonded labourers identified and released in this State as on 31-3-90 was 62,689. Out of them, 50,768 have since been rehabilitated. The total Central share released for their rehabilitation was Rs. 11.66 crore which works out per capita to

Rs. 1893. It is to be noted that the limit for rehabilitation of each bonded labourer out of the CSS was enhanced to Rs. 6250 from 1st Feb. 1986. Out of the total grant of Rs. 11.66 crore released for Karnataka as Central share, nearly 60 percent (Rs. 6.87 crore) was released after 1st April, 1986. Therefore, the per capita average amount of Central share, which is Rs. 1893, is very low.

16.18 A number of evaluation studies have been conducted regarding the rehabilitation efforts made by various agencies in this State. Some of them have appreciated them, while others have found a lot of loopholes. The evaluation conducted in the year 1987 by the Bangalore based Institute of Social and Economic Change (ISEC) in the districts of Mysore, Shimoga, Banaglore (Rural) and Hassan found many happy aspects about the rehabilitation of released bonded labourers in these districts. For example, very few ineligible beneficiaries had been included and 60 percent of the surveyed beneficiaries had retained their assets for more than six years. The study however, noted that the impact of rehabilitation programmes was rather modest because the difference of income between beneficiaries who had retained the assets and who had not retained them was found to be around Rs. 600 only. The evaluation by SHAKTI, a voluntary organisation in Bangalore district, however, indicated that most of the surveyed beneficiaries had been getting good returns from their assets.

16.19 The Agricultural Estate Rehabilitation Project in Sampigehally Bellahally village started in the year 1979 with a lot of fanfare, did not take off for 6-7 years and points to the lackadaisical efforts of the State machinery. Undeterred by the fate of this project, the State Government drafted an ambitious project of 1,500 agricultural estates for rehabilitation of 18000 families of released bonded labourers spread over a period of nine years in different parts of the State. Thus we noticed that land based rehabilitation schemes are getting increasing attention with the State Government.

16.20 Some districts of the State had made necessary efforts in integrating the CSS with other anti-poverty programmes. Chickmagalur district may be mentioned in this regard. However, such efforts are far and few.

16.21 The NGOs have also been active in various aspects connected with bonded labourer system in this State. Mention may be made of the efforts of MYRADA in Mysore district, though there are a large number of such agencies working in different parts of this State without much publicity. By and large the NGOs are found working in coordination with the State authorities in rehabilitation of bonded labourers.

16.22 We would like to mention the efforts of a young officer Shri. K. Shivaramu, an IAS probationer of 1987 batch who underwent training in Mysore district during 1988-89. As a part of his training, he was made Block Development Officer and Tahsildar for a few weeks. Even during this short period, he studied the problems of bonded labourers and devised innovative schemes for their rehabilitation. These schemes included grant of high quality cultivable government lands close to irrigation canal and also evicting encroachments by big landlords from government lands and granting the same to bonded labourers. There are a few government functionaries in this State like Shivaramu who made sincere efforts in rehabilitating bonded labourers but such examples are unfortunately not many.

Kerala

16.23 In Kerala, of the 823 identified released bonded labourers, 710 have been covered under the CSS. However, the unique land based rehabilitation project, the Priyadarshani Tea Estate in Manantoddy sub-division of Wynad district, deserves to be mentioned. This project was drafted in the year 1986-87 at a capital cost of Rs. 98.82 lakh and recurring expenditure of Rs.377.58 lakh spread over a period of 6 years. It was designed to cover 118 released bonded labour families, aiming at providing them a daily wage income of Rs. 21 per day. The scheme envisages integration of other development schemes of Departments of Rural Development, Primary and Adult Education and Social Welfare. The initial indications about this project show that it is moving in right directions and the beneficiaries have started reaping the benefits.

Madhya Pradesh

16.24 In Madhya Pradesh, only 7,554 released bonded labourers out of a total number of 10,895 have since been rehabilitated. The remaining were not available / migrants sent away to their original places. This State has been rather slow in reacting to all aspects relating to bonded labourers be it identification, release or rehabilitation. It was only in the year 1988-89 that a comprehensive scheme covering all the aspects of bonded labour system was drafted by the State at the initiative of a voluntary organisation. This scheme called the "Yogi Yojana" is a 11-point programme aimed at expeditious and time-bound identification, release and rehabilitation of bonded labourers besides implementing other provisions of the Act, 1976. The Yojana includes organising mass camps at district and tehsil levels to cover all these aspects and also to create awareness among the bonded labourers so that they could take maximum benefit out of the laws and schemes meant to help them. However, the history of release and rehabilitation efforts in this study is one of great apathy. In Raipur district, for example even after the Supreme Court intervened in respect of bonded labourers identified in Pithora, Basna, Saraipalli and Kasdol blocks and ordered the State Government to rehabilitate them, the State Government did not take action in a majority of the cases for almost two years. In Pithora block, 621 persons had been released from bond while in Basna that number was 1333. Even after two years of the Supreme Court order, only 14 persons in Pithora block and 11 in Basna block had been paid the full amount of Rs. 6250 available under the CCS. Another 163 persons had been paid only the Central share of Rs. 3000. In Saraipalli block, out of the 739 released bonded labourers, 434 had been paid a sum of Rs. 3000 only. Three had been paid Rs. 4250, six had been paid Rs. 1660, 12 persons Rs. 1000 and six persons Rs. 2000. This is a very sad story and is unfortunately seen in many parts of the State.

16.25 The Director General of Labour Welfare, Government of India, in his tour reports relating to Madhya Pradesh, has pointed out a number of other shortcomings also. These include large time gap between release and rehabilitation, insufficient quantum of rehabilitation package, lack of integration of the CSS for rehabilitation with other anti-poverty schemes, absence of marketing and servicing facilities regarding non-land based schemes and lack of monitoring and evaluation.

Maharashtra

16.26 Of the 1,331 identified and released bonded labourers in Maharashtra, 951 could be rehabilitated by 31st March, 1990. The total amount of Central share released for their rehabilitation was Rs. 8.25 lakh. This works out to a per capita sum of Rs. 850 which is too low. Like Haryana and Gujarat, in Maharashtra too the State Government has shown tremendous indifference towards all aspects connected with bonded labour. We may not be off the mark in saying that almost the entire credit for identification, release as well as rehabilitation of bonded labourers in this State would go to activists and voluntary agencies like Vidhayak Sansad, Bhumic Sena and Sramjeevi Sangathana. The efforts of these organisations in securing release and rehabilitation of bonded labourers is noteworthy in Thane. Their attempts to organise the released bonded labourers in economic units for rehabilitation like Dairy Cooperatives, Cooperative Truck Transport Society, Cooperative Brick Kiln Society are such efforts which need to be replicated throughout the country.

16.27 It is, however, to be noted that since such voluntary agencies are not working in every nook and corner of the State, the State Government should gear up its own machinery to take up the challenge and the task.

16.28 There are cases of bonded labour in non-traditional and urban areas of this State. For example the case of Hamals of Pune which we have referred to in our study. Neither any NGO is working for their cause nor does the Government seem to be worried about their welfare.

Orissa

16.29 The efforts of Orissa State regarding identification, release and rehabilitation, of bonded labourers, ever since the Ordinance / Act came into being were not sustained and show a lot of ups and downs. Upto the end of the financial year 1989-90, 93 percent of the 49,824 released bonded labourers had been covered under the CSS for rehabilitation. The total Central share for rehabilitation released to this State was RS. 7.87 crore which works out to a per capita of Rs. 1830, and is quite insufficient. To add to that, we notice that integration of this CSS with other anti-poverty programmes has not been very well achieved. This State is another example of Red Tapism in implementation of this major welfare programme. A classic instance is the fact that during the year 1983-84, out of the total Central Plan allocation of Rs. 150 lakh earmarked for this State under the CSS for rehabilitation, only Rs. 6.29 lakh could be released, because the State Government had not submitted the Utilisation Certificates! Again, although the Government of India had advised all the State Governments to delegate the powers of sanction of rehabilitation schemes to District Collectors, Government of Orissa did not implement this suggestion and continued to keep this power at the State level. The State Government should have geared up its district machinery by way of suitable orientation training programmes and delegated this power for faster implementation of the scheme.

16.30 The other short-comings noticed in the rehabilitation efforts in this State are lack of credit facility for consumption needs, lack of forward and backward linkages and absence of involvement of non-Governmental agencies. A study by the PEO (1984) had found that a large majority of the beneficiaries of the CSS for rehabilitation surveyed in the district of Koraput, Ganjam, Kalahandi and Phulbani had reported that the rehabilitation schemes were thrust upon them without taking care of their preferences, The PEO study also noticed time lag between release and rehabilitation, though another study by IIPA in Koraput (1982), did not notice much delay of this type.

16.31 We would like to make a special mention of the decision of Orissa State Government to relax the age limit for recruitment to group C and D posts for upto 40 years in case of released bonded labourers. This is a welcome feature which should be taken note of by the other States.

Land based rehabilitation has been tried in Orissa with mixed results

Rajasthan

16.32 Rajasthan State has covered almost all released bonded labour out of the total number of 7127 under the CSS for Rehabilitation. The total Central Assistance released was Rs. 48.68 lakh. The average per capita assistance under the CSS comes to Rs. 684, which is meagre.

16.33 The Rajasthan Government, however, took-up the task of rehabilitation of bonded labourers in right earnest soon after the Act was brought into force. In 1978, a special scheme for rehabilitation of 1020 released bonded labourers of the districts of Dungarpur, Chittorgarh and Kota was drafted for Rs. 45.40 lakh involving equal financial participation by the Central and State Governments. Of the total of 1020 beneficiaries, 200 were to be covered by land based schemes. 700 by non-land based schemes and 120 by skill / craft based schemes. Again, in 1979, a special effort was launched in Kota district by forming the Kota Bonded Labourers Industrial Cooperative Society. However, later reviews in 1987 found that the experiment was suffering from a variety of problems. The share capital given to the society was kept in a fixed deposit account and the interest earnings were used to maintain a vehicle and staff. The original idea was to use the capital in schemes which would generate employment / self-employment prospects of the members. However, for want of proper guidance from the Government, the members allowed the government functionaries to carry the schemes in wrong directions. It was also noticed that almost all the beneficiaries were not even aware about the concept behind the formation of the society even after eight years of its existence.

16.34 Rajasthan has made many more experiments with land based and other types of rehabilitation. In land based schemes it was noticed in some cases that the land allotted was not good enough for agriculture. In non-land based schemes, the problems noticed by PEO (1984) were that the beneficiaries were generally not consulted while selecting the schemes, the schemes suffered for want of forward and backward linkages and there was a lack of follow up efforts. In some cases, the CSS for rehabilitation has been integrated with other schemes like Rural Housing Schemes and Rural Employment Programmes. However, such instances are not many. The PEO study also noted a delay of 2-3 years between release and rehabilitation in Kota district.

Tamil Nadu

16.35 In Tamil Nadu, almost all, that is 36,536, released bonded labourers out of a total number of 37,965 have since been covered under the CSS for rehabilitation. A significant number, namely 8290, of the rehabilitated bonded labourers were those who belonged to Tamil Nadu, were kept in bondage outside the State and were brought back to the State after securing their release. Their rehabilitation was taken up in different parts of the State by the Government. In many cases, non-government agencies have actively participated in the task of rehabilitation of bonded labourers.

16.36 The efforts regarding rehabilitation of bonded labourers in Tamil Nadu are not as impressive as in case of release. We have the study by Shri T.N. Gopalan, for example, in Anna district, where the famous case of 633 bonded labourers identified by Shri Gurnihal Singh Peerzada, the then Sub-collector of Kadaikanal, the rehabilitation efforts offer an interesting case study. The rehabilitation measures were taken up under the directions of the Supreme Court. Lands (118 crores) were granted for rehabilitation. However, later evaluation indicated that 22 of the 118 acres were found to be useless for cultivation. The assignment of land (two acre patta each) was so haphazard that in many cases the two acre patta did not come in one piece. The nearest schools from the site of rehabilitation were 5.7 kms. away. There was nothing by way of health care and housing facilities.

Similar is the case with the rehabilitation efforts in many other parts of the state

16.37 However, there are success stories also particularly the MYRADA-Talawadi project (Periyar district). In this project, 38 freed bonded labour families were to be resettled over 130 acres of land at Kongahalli village. The rehabilitation package included agriculture, sericulture, tree-culture, animal husbandry, horticulture and housing. This project was taken up with the grants available from the State government, Panchayat Union as well as the voluntary organisations.

Uttar Pradesh

16.38 The number of bonded labourers covered under the CSS for rehabilitation in Uttar Pradesh was 26054 against the total number of 26155 released, as on 31-3-7-1989. Uttar Pradesh would be of special feelings for this Academy because it was in this State in the year 1974 that 35 IAS probationers made a survey in the Jaunsar Bawar-Jaunpur Rawain areas of the North Western Hill districts of Uttar Pradesh and brought to light of bonded labourers in this area.

16.39 Uttar Pradesh offers some significant stories of rehabilitation efforts, particularly by activists and NGOs. We may recall the initiatives made by Shri Avadhesh Kaushal (who is now working with this Academy) in organising the awareness camps, in Jaunsar Bawar area of Dehradun district. In these camps, land pattas which were pending for years were granted to the released bonded labourers besides providing them a lot of other rehabilitation benefits. Such camps generated tremendous awareness about the customs of bonded labour in the region and about the laws relating to abolition of this system etc. not only among the sufferers but also among the people at large.

16.40 However, in spite of securing the land, the story of these poor beneficiaries is not a very happy one. For want of sufficient supportive infrastructure and inputs, the land based schemes failed to take off. Later the State Government experimented with giving cash grant of the entire amount of Rs. 4000/- under the

CSS. However, as noticed by subsequent assessments, a very meagre sum (Rs. 800) reached the beneficiaries.

16.41 Many women bonded labourers were released from the brothels of plains where they had gone as a part of the system of bonded labour under which the whole family was suffering. Even after they were released, their rehabilitation was meager and instances were found where they were forced to send younger female members of their family to the brothels again to replay the fresh debts they had to incur for their survival.

16.42 In Banda, we noticed efforts of a young officer Shri Arun Arya, Sub-divisional Magistrate of Karwi who tried not only to get bonded labourers released but also to provide them a model rehabilitation scheme giving land based and non-land based programme as a package. It was noticed however, that the landlord community and vested interests got furious and ensured that not only was he transferred out of the sub-division but they also began physically intimidating the released bonded labourers. In Banda, we have seen the great misuse of the land based rehabilitation schemes. A number of cooperative farming societies for rehabilitation of released bonded labourers was constituted and plots of land were obtained in their name. However, these plots of land were largely enjoyed by the big landlords and not by the members of the cooperative societies. This sorry state of affairs was primarily due to lack of awareness among the released bonded labourers.

16.43 A similar situation was noticed in Allahabad where "Ghost" bonded labourers were identified to siphon off rehabilitation grants. In another instance, ineligible persons were identified as bonded labourers and made to undergo family planning sterilisation operation so that targets for both the programmes would be met and a large part of government funds would be knocked off by the government functionaries.

16.44 The sad plight of workers at the Silica mines of Allahabad has also been described in our report. We have recommended that mere implementation of the provisions of the Act would not be helpful in a case like this. Labour welfare measures and steps to create awareness amongst the workers, are necessary to create an environment where the efforts for implementation of the provisions of the Act would be meaningful.

16.45 Our study has also highlighted the problems of child labourers in the carpet industry of Varanasi and Mirzapur. This is an area which needs deeper study. A pilot scheme for the rehabilitation of such children has been taken up.

General Issues:-

16.46 From the aforesaid analysis we notice a lot of common features in the rehabilitation measures undertaken in various States. These are summarised as follows:

(i) There is a lot of time lag between release of bonded labourers and their rehabilitation. Such delays lead to tremendous miseries on the part of the released bonded labourers, tempting him to relapse into bondage. There are instances of released bonded labourers begging their ex-masters to take them back into bondage so as to get some economic security;

(ii) The amount provided under the Centrally Sponsored Scheme for Rehabilitation is quite insufficient particularly because the CSS is not integrated with other anti-poverty schemes;

(iii) It is noticed almost everywhere that the CSS for rehabilitation is not being integrated with other welfare / anti-poverty schemes like Rural Housing Scheme, Adult Education Schemes, IRDP and Employment Programmes;

(iv) The land based schemes are generally found to be having tremendous potential for meaningful rehabilitation. However, most of the land based schemes have not succeeded on account of insufficient planning and lack of inputs and infrastructure;

(v) The non-land based and skill / craft based schemes have also not been a success and consequently they have not provided sufficient economic returns to the beneficiary. The reasons by and large are as follows:

(a) The schemes were not identified with sufficient forethought and planning;

(b) Willingness and interest of beneficiaries were not ascertained;

(c) Backward and forward linkage were not provided; and

(d) The schemes were not integrated with the other schemes in the area.

(vi) The State Governments' delay in submitting Utilisation Certificates to the Central Government. As a result the release of grants is held up and the beneficiaries suffer;

(Vii) In some cases, the State Governments do not release their share of the CSS to the beneficiary making the rehabilitation grant highly insufficient;

(viii) In many of the rehabilitation schemes particularly the skill / craft based units, the beneficiaries needed proper training very badly. Such training could be organised under programmes like TRYSEM, SCP and DIC schemes etc;

(ix) We also noticed rampant corruption in implementation of the schemes and even in the identification of beneficiaries. Where cash is given for rehabilitation, only meagre sum reaches the intended hands. Where land is given, the real users are not the released bonded labourers but either "ghosts" or the benami users. And where assets are given, poor quality assets, even dead animals, are given to the helpless bonded labourers;

(x) Insurance of the assets is also not done almost as a general practice. As a result of the variety of factors described above, the assets are lost and in the absence of insurance, the loan component becomes a big burden for the poor fellow; and

(xi) The beneficiaries are not aware about the schemes being handed down to them. Such awareness would come by organising training programmes, awareness camps and mass publicity.

B-RECOMMENDATIONS

17. The various macro and micro level studies conducted and scanned by us, including the two workshops convened in the month of January 1990 and February 1990 and the Expert Group Meeting held on the 16th March, 1991, have helped us to identify a set of recommendations. These recommendations are aimed at more effective implementation of the legal as well as administrative arrangements for the identification, release and rehabilitation of bonded labourers in its various forms in the country.

IDENTIFICATION

17.1 There is a need to organise a comprehensive country-wide survey, utilising the Central and State official machineries, NGOs, activists and research institutions like ISI, NLI, NIRD working in the area to unearth the evil on a national scale and arrive at a precise picture on the nature, prevalence and spread of bonded labour in India. The design, organisation and conduct of this country-wide survey should specially be planned by a committee of experts constituted for this purpose and with full financial and other support from the Ministry of Labour.

17.2 Our studies and survey of literature on the subject reveal that high incidence of bonded labour in agriculture is prevalent in the following areas in the country:

I.	Andhra Pradesh	Mehbobnagar, Ranga Reddy, Warangal, Medak
II.	Bihar	Palamau, West Champaran, Deoghar, Monghyr, Gaya, Muzaffarpur.
III.	Gujarat	Surat.

IV.	Karnataka	Bangalore, Shimoga, Mysore, Bijapur, Mandya.
V.	Madhya Pradesh	Bilaspur, Shahdol, Sarguja, Vidisha, Satna, Raigarh, Bastar, Ratlam.
VI.	Maharashtra	Ahmednagar, Aurangabad, Nanded, Nasik, Thane
VII	Orissa	Balasore, Cuttack, Koraput, Bolangir, Sambalpur, Puri.
VIII	Rajasthan	Jhalawar and Kota.
IX	Tamil Nadu	Kodaikanal, Salem, Periyar, Trichy, Dharmapuri, North Arcot, South Arcot.
X	Uttar Pradesh	Ballia, Bundelkhand, Hamirpur, Hardoi, Kheri, Sitapur, Bijnore, Bareilly, Patha Area, Mirzapur, Varanasi, Allahabad, Garhwal Area.

Similarly, in some of non-agricultural occupations such as the following the bonded labour elements have not been adequately covered by surveys, studies; etc.

i. Stone-quarries in different parts of the country;
ii. Migrant labourers;
iii. Brick-kilns;
iv. Joginis and Devadasis;
v. Fishermen;
vi. Construction labour;
vii. Forest labour in Orissa, Rajasthan, M.P., Maharashtra ;
viii. Bidi workers;
ix. Carpet weavers;
x. Pottery;
xi. Weavers;
xii. Head loaders;
xiii. Child labour in Match and Fireworks Industries; and
xiv. Rag pickers, shoe shiners and beggars;

These areas and occupations include rural as well as urban areas. Special attention should be devoted in the surveys and studies to these areas and occupations. This should be immediately followed up with preparation of special projects for the speedy release and rehabilitation of bonded labourers identified in such areas / occupations.

17.3 The most important element in the identification and release of bonded labour is the generation of awareness and pressure from among them for their release and rehabilitation. That this task is very difficult is clear from the total absence of any leadership or the very few voluntary agencies and organisations actively involved in their mobilisation and welfare. Therefore, the Government should undertake upon itself the task of design and conduct of a nation-wide programme for education, mobilisation and organisation of bonded labourers. The electronic media should be fully exploited for these purposes.

17.4 The Rural Labour Camps (RLCs) conducted by the National Labour Institute (NLI) in different parts of the country have proved to be a great success in spreading awareness and consciousness amongst bonded labourers regarding their exploitation and also regarding laws and welfare schemes pertaining to them. The camp methodology pioneered by the NLI has been a powerful source in providing psychological strength to weaker sections specially landless labourers and bonded labourers. Above all, these camps have contributed to the fresh identification of bonded labourers. There is a need for spreading these rural labour camps on a country-wide basis specially in pockets where the bonded labour phenomenon is acute. Institutions such as NLI, NIRD and other training institutions for labour, which have a special responsibility towards the weakest among the weaker sections, should adopt these rural labour camp strategies in their annual programmes and integrate them with suitable follow up measures. Voluntary agencies wanting to undertake such education and awareness efforts should be encouraged and provided with all assistance by the CAPART.

STATEMENT 0F OBJECTIVES OF THE BLSA ACT

17.5 The statement of objectives appended to the Act which states that the Act is to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people needs to be made explicit by including prohibition of the practice of all forms of forced labour coming within the purview of Article 23 of the Costitution.

DEFINITIONS

17.6 Some of the existing definitions need to be re-phrased with a view to remove doubts and ambiguities that have come to the surface in the past. The changes suggested here are mainly with a view to underplay the element of debt bondage in the definitions.

(a) In Section 2, sub-section (f) the term ‘bonded labourer’ may be defined as “a labourer who is compelled to render, or renders labour under the bonded labour system”. The existing definition defines the term ‘bonded labourer’ exclusively with reference to the term ‘bonded debt’, which is not at all sufficient.

(b) Section 2, sub-section (g) defining ‘bonded labour system’ is so worded that it makes sub-clauses (i) to (iv) under sub-section (g), subservient to debtor-creditor relationship where obviously ‘debt” assumes special significance. In order to remove this impression that the Act only contemplates classical bondage within its ambit, first paragraph of sub-section (g) be reformulated as “bonded labour system means any system of forced or partly forced labour under which a debtor or any person” and the remaining part of this para be deleted, followed by the rest of the sub-section remaining as it is.

(c) The explanation introduced in Section 2(g) in the year 1985, also needs to be amended to make it clear that any system of forced or partly forced labour under which any workman under any law or contract is required to render labour for services in circumstances of the nature mentioned in sub-clause (i) of this clause or is subjected to all or any one of the disabilities referred to in sub-clauses (ii) to (iv), is a bonded labour within the meaning of this clause.

RELEASE

17.7 The field functionaries are expected to provide 'release' to the identified bonded labourer soon after identification. However, in many cases there has been a lot of delay in securing the release, which has caused great hardship to bonded labourers.

17.8 The identified bonded labourers should be shifted to protected camps soon after their identification and kept there at government's expense until concrete rehabilitation packages are given to them.

17.9 It has been noticed in some cases that the released bonded labourer was not aware about the fact and/or the consequences of his release. As a result, he kept on repaying the debt installments to his ex-master. Therefore, the fact of release should be properly explained to the person. It would be advisable if release proceedings were conducted in the same village where the bonded labourer has been identified. These proceedings should be in open court so that not only the bonded labourer concerned but all the villagers, whether oppressor or sufferer would become aware about the provisions consequences relating to the bonded labour laws.

PROSECUTION

17.10 (i) Though the Ordinance Act was promulgated in the year 1975-76, most of the State Governments have so far not shown enthusiasm in prosecuting the keepers under Chapter VI of the Act. However, now, after 16 years of the enactment, there is no justification either to practise bonded labour or to have a soft corner towards it. Therefore, in every fresh case of identification of a bonded labourer, his keeper should be prosecuted simultaneously.

(ii) It has been noticed that some keepers openly declare that they have bonded labourers and secure their release to knock off the rehabilitation grants. For these reasons also simultaneous prosecution of the 'keeper' is necessary.

17.11 We have also noticed fake bonded labourers being identified to get the rehabilitation grants. Such offence should be made punishable under the Act, 1976 with a fine of Rs. 5,000 or the rehabilitation grant so received, whichever is more, and imprisonment of one year.

17.12 The keepers of bonded labour should be prosecuted under as many cases and as many provisions of law as possible. For example, if a keeper had 15 bonded labourers, 15 separate cases under the Bonded Labour System (Abolition) Act, 1976 should be launched against him. Cases should also be launched under different provisions of Indian Penal Code namely, Section 374 (Forced Labour) and section 367 (Kidnap and Wrongful Confinement). Cases should also be booked regarding sexual exploitation of women and under Minimum Wages Act. Provisions of the recently introduced Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989 should also be fully exploited. This would have salutary effect on other keepers.

17.13 As soon as a person is identified as a bonded labourer and released from the clutches of his landlord, the Executive Magistrate *must hold a simultaneous summary trial then and there* and convict the landlord and sentence him.

17.14 Section 22 of the Act needs to be amended so as to make offences under this Act *cognizable and non-bailable* instead of being cognizable and bailable as at present. The Act must also provide that *no person shall be eligible for anticipatory* bail in this regard.

17.15 It should be mandatory for the concerned Sub-Divisional Magistrate and the district Magistrate to provide free legal aid to the bonded labourers in every criminal trial. The bonded labourer or the NGO activist who secured his identification should be free to choose any advocate, whose fees should be paid by the government.

17.16 There should lay no appeal or revision of the proceedings or judgment of the trying Executive Magistrate.

17.17 At present, there is no bar to a jurisdictional Judicial Magistrate trying a case under this Act even where judicial powers had been conferred upon the Executive Magistrate under Section 21. This may negate the very purpose of empowering the Executive Magistrate with such powers. In order, therefore, to avoid this and to ensure that offenders are effectively prosecuted and convicted under this Act, the Act must provide for trial only by the Executive Magistrate who is vested with judicial powers under this Act and bar the jurisdiction of any other Magistrate in this regard.

17.18 The penalties on the culprits under this Act have no minimum limit. It is suggested that a minimum sentence of six months and minimum fine of Rs. 2000 should be provided in Sections 16,17,18 and 19.

17.19 It should be incumbent upon the District Magistrates and Sub-Divisional Magistrates to take effective action on all the complaints brought to them by the activists and voluntary agencies on behalf of the bonded labourers.

BURDEN OF PROOF

17.20 Section 15 of the Act provides for burden of proof. The location of this provision in the Act seems to have created some kind of confusion in the minds of implementing authorities. Doubts have been expressed whether Section 15 applies to a criminal trial held for prosecution of offences under this Act or not. The view held in certain quarters is that it does not apply to prosecutions under Section 21. The trial of offences under this Act is to be conducted in accordance with the procedure prescribed in the Criminal Procedure Code. Accordingly, the burden of proof would be on the prosecution to prove that the accused had committed an offence, unless otherwise provided by the Act. It is not clear whether the existing provision can be relied upon and can be treated as an exception to the fundamental principle of criminal law as regards the burden of proof or not. There is a scope for ambiguity in this regard because of the precise location of this provision in the chapter dealing with Vigilance Committees which has nothing to do with trial of offences under the Act. It is therefore, suggested that Section 15 providing for burden of proof be reworded and placed in the last chapter dealing with miscellaneous matters.

RECOVERY OF WAGE ARREARS AND DAMAGES

17.21 Under Section 18 of the Act, whoever takes any service from a person under bondage is to be punished with imprisonment upto three years and fine upto 2,000 rupees; and, out of the fine, if recovered payment would be made to such bonded labourer at the rate of Rs. 5 for each day for which bonded labour was extracted form him. The amount of Rs. 5 mentioned in this section is thoroughly inadequate and unreasonable. It should be replaced by the words 'twice the difference between the prescribed minimum wages and the wages actually received'.

17.22 Recovery of wage arrears from the keeper takes time in some cases. Therefore, the State Government should pay to the released bonded labourer such wage arrear due from the State's Consolidated Funds and later recover it from the ex-master as arrears of land revenue.

17.23 Suitable directions be issued to Sub-Divisional Magistrates (SDMs) to institute simultaneous proceedings under the Minimum Wages Act for the purpose of recovery of wage arrears from the ex-masters. For this purpose, the SDMs should also be designated as the claims authority under Section 20 of the Minimum Wages Act.

17.24 The Act may also provide for compensation and recovery of damages from the keeper of the bonded labourer for having inflicted sustained torture and injuries on the bonded labourer. The amount of compensation and damages should be proportionate to the length of bondage subject to a minimum of Rs. 10,000.

VIGILANCE COMMITTEES

17.25 At the moment, implementation of the Act depends on the sincerity and enthusiasm of the implementing officers. Therefore, we find many cases where good rehabilitation schemes drafted by one officer were not followed up by his successor. Depending on individual officers in this delicate task has not been helpful in the interest of bonded labourers at large. The Vigilance Committees have the potential of providing a continuity in the scheme of things. Therefore, the Vigilance Committees have to be given more authority and responsibility by amending the Act and also by issuing suitable executive instructions. Certain concrete suggestions in this respect are given in the succeeding paragraphs.

17.26 It has been noticed that in most of the cases, the Vigilance Committees are not constituted promptly. Even if constituted, their term is specified and after the specified term is over, the reconstitution is done after several months or even years. This breaks the continuity of the system and people start losing faith in the Vigilance Committees. Therefore, a provision should be made in the Act to let the existing Committee continue until it is replaced by a fresh Committee.

17.27 The powers to constitute Vigilance Committees at district as well as sub division level vests with the State Government under Section 18. This power should be delegated to the District Magistrate at least in respect of the Sub Divisional Level Committees.

17.28 Though Section 14 provides for involvement of the Vigilance Committees in providing economic and social rehabilitation to the bonded labourers, yet in practice they have not been found to be so involved. A clear cut procedure should be prescribed to involve the Vigilance Committees at various stages namely, pre-identificaiton, during identification, release, preparing specific schemes for rehabilitation, implementation of rehabilitation schemes and post rehabilitation monitoring and evaluation.

17.29 The Vigilance Committees should be empowered to launch prosecution proceedings against any offender under Sections 16, 17, 18, 19 and 20 of the Act.

17.30 The District Superintendent of Police should be included as a statutory member of the Vigilance Committees at the District level. Likewise, suitably high-level police officers should be included as members in the Sub-Divisional Vigilance Committees.

17.31 The NGOs and activists engaged in the release, rehabilitation and education or bonded labourers should necessarily be included in the Vigilance Committees.

17.32 Now that successive political parties in power at the centre have been giving consistent support to the Panchayati Raj setup at district, sub-district and village levels, it would be advisable to give representations to Panchayati Raj Institutions on the Vigilance Committees.

17.33 No periodicity for meetings of the Vigilance Committees has been prescribed in the Act. We notice that most Vigilance Committees do not meet for months or even years. Vigilance Committees must be directed by the Act to meet bi-monthly at least.

17.34 We have also noticed that most of the State Governments do not monitor the functioning of the Vigilance Committees. The State Governments do not (/must?) monitor the functioning of these Committees and include a note on the subject in the annual reports pertaining to the concerned Departments.

UNIONISATION OF BONDED LABOURERS

17.35 Released bonded labourers, need social and psychological rehabilitation also, for which certain suggestions have already been made above. In addition, it would be necessary to organise them at various levels as suggested below:

(i) All the identified bonded labourers in the village should constitute a Bandhua Sabha and elect a leader. This Sabha should meet every month to discuss the various issues among themselves. The village level / sub-block level functionaries of Revenue, Police, labour, Agriculture and Development Departments should attend the Sabha necessarily. Block and district level functionaries of these departments should also attend these Sabhas.

(ii) The village level leaders so elected should constitute a Block-level Bandhua Samiti and elect a Chairman. This Samiti should meet once in three months. The block level functionaries of Revenue, Police, Labour, Agriculture and Development Departments should attend the meetings of the Samiti. The district level officers of these departments should also attend these meetings.

(iii) All the Block level Bandhua Samiti Chairmen should be made members of their sub-division level Vigilance Committee. At least two such Chairmen should be made members of the District Vigilance Committee.

(iv) Special training programmes should be organised for the village level Bandhua Sabha leaders and Block Bandhua Samiti Chairmen regarding labour welfare schemes and laws, particularly those relating to rural labour and bonded labour.

REHABILITATION

17.36 The existing Sections 6, 7, 8 and 9 or Chapter III of the Act reinforce the feudal character of bondage and focus exclusively on debtor-creditor relationship predominant in the existing definitions of the term 'bonded labour system'. Thus, suitable changes will have to be made to provide protection to non-traditional categories where element of debt bondage is not very prominent. For this purpose, following modifications in chapter III are suggested:

(a) Sec.6 in Chapter III of the Act provides for extinguishment of liability to repay bonded debt. The title to Chapter III be amended so as to include the words "*every obligation under the bonded labour system including the*" liability to repay bonded debt. These words may be added suitably wherever the words liability to repay bonded debt occurs in Sections 6, 7 and 8 as well. This change is suggested with a view to underemphasise the element of bonded debt as well as to include any other obligation which has been incurred by the bonded labourer by virtue of operation of any one of the conditions mentioned in sub-clauses (i) to (v) of Sub-sec (g) of Section 2.

(b) In Sec. 6 sub-clause (5), after the words '*foricbly taken over by any creditor'*, the words 'or any other person' and after the word '*for'* the words '*enforcement of any obligation under the bonded labour system including the'* be added. Under Sec. 6 sub-clause (6) after the words 'aggrieved person may', the words '*at any time thereafter may'*, be substituted in place of the words 'within such time as may be prescribed'. In the same sub-section, the words '*or such other person'* be added after the word 'creditor' wherever it occurs in sub-clause (6) and sub-clause (7) of Sec. 6.

(c) In Sec. 7 in Chapter III, the term 'bonded debt' be replaced by the words '*obligation under the bonded labour system including bonded debt'*.

(d) Sec. 8 provides for prohibition against eviction from any homestead or other residential premises of a bonded labourer. This prohibition, however, does not extend to any piece of land which is under cultivation of the bonded labourer. Consequently, the bonded labourer, after he has been freed and discharged under this Act, cannot be protected against eviction by the landlord from the agricultural land which was occupied by him as part of the consideration for the bonded labour. It is, therefore, proposed that the term '*or land'* be added after the words residential premises in both sub-clauses (i) and (ii) of Sec. 8. This will enable the authorities to protect the bonded labourers from being evicted from the piece of land which he was occupying as part of the consideration for bonded labour.

(e) Similarly the extension of the protection on and restoration provided for under Section 8 should be considered for other assets like stone quarries, brick-kilns, beedi manufacturing units, weaving units, etc. owned by the keeper of bonded labourer. The Executive Magistrates empowered under Clause 2 of Section 8 shall have the powers to ensure that bonded labourers are not evicted or removed from these assets and that these assets and the employment provided by these assets are restored to the released bonded labourers. In all such cases where homestead land, cultivable land and other assets, such as stone quarries, brick-kilns, beedi manufacturing units, weaving units, etc. wherein the security of occupation and employment are protected and restored by the provision under Section 8 (2), there should be provision to confer ultimately ownership right, if necessary by acquiring such property or asset and vesting the ownership with the erstwhile bonded labourers.

(f) It has often been observed that property owned by or vested in a bonded labourer is illegally transferred to the creditor or any other person. At present there is no provision in the Act which prevents such transfer, or where the transfer has already taken place, to restore back that property to the bonded labourer after he is freed and discharged from his obligation to render forced labour. It is suggested that a new provision be added which should make such transfers punishable under law and where such transfers have taken place, the District Magistrate or the Sub-Divisional Magistrate as the case may be is authorised to restore back such property to the bonded labourer. This is a suggestion akin to the provisions of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition on Transfer of Certain Lands) Act, 1976. Any such transfer should also be made punishable under the Act.

17.37 All the rehabilitation schemes revolve around the Centrally Sponsored Scheme (CSS) for rehabilitation of released bonded labourers. However, we notice that in many cases grants under the CSS are not provided to the released bonded labourer in time because grants are not available with the District officers concerned. Grants are not available with them because either the State Government has a resource crunch or the release of grants from Central Government is delayed on account of Utilisation Certificates not being submitted by the State / District authorities. The ultimate sufferer is the released bonded labourer. In the absence of timely and effective rehabilitation, many bonded labourers have been noticed to have relapsed into bondage for sheer survival. Therefore, the following recommendations are made in regard to CSS:

(i) The CSS should be a 100 percent Centrally assisted scheme, as against the present 50 percent participation of State Government.

(ii) The CSS funds / assets should be paid to the released bonded labourers along with his release order, from out of the Consolidated Funds of the State. Provision for such payment should be made in the Act itself and it should be an automatic liability on the State Exchequer, just like the salary of the Government staff.

(iii) Full amount of assistance of Rs. 6,250 should be provided to the released bonded labourers. The word 'upto Rs. 6,250' should be replaced by 'of 6,250' in the CSS Circular.

(iv) For better integration of the CSS with other schemes of the rural development department, the operation of CSS at GOI level should be transferred from Ministry of Labour to the Department of Rural Development.

17.38 The Bihar Government has made a provision that rehabilitation grant should be Rs. 12500; that is to say, in addition to Rs. 6250 under the CSS, Rs. 6,250 (for released bonded labourers belonging to Scheduled Castes) from out of a Special Central Assistance Scheme. This is a good idea which should be followed by all the States. Besides, other anti-poverty schemes should be included to provide an integrated package for rehabilitation.

17.39 Group Rehabilitation Projects should be encouraged on the lines of DWCRA programmes. Such Group Rehabilitation provides better economic, social and psychological strength to the beneficiary.

17.40 The Group Rehabilitation Projects could be either under cooperative set-up or a simple association under the Societies Registration Act. In either case, one of the beneficiaries should be the Chairman and there should be a ban on making Government officers holding that office. The beneficiary Chairman and the members of the Managing Committee, all of whom should be the beneficiaries themselves, should be given proper training in managing the show.

17.41 Well-planned and integrated rehabilitation projects like the Priyadarshani Tea Estate (Manantoddy, Wynad, Kerala) should be encouraged by the Government of India and the State Governments.

17.42 Though the Government of India has advised the State Governments to delegate the power of sanction of individual Rehabilitation Schemes to the District Collectors, yet some States (e.g. Orissa) have still kept this power at the State-level. A constant effort should be made to decentralise the powers in such matters, coupled with suitable training to the officers concerned.

17.43 All payments to the released bonded labourers towards their rehabilitation should be made in the form of assets and cheques only. In no case should cash be given, to avoid misuse by anyone.

17.44 The predominant cause for lapsing into bondage is indebtedness. Such debts are taken by rural poor largely for consumption needs. After release from bondedness, however, his position becomes all the more vulnerable in this regard. Therefore, the jurisdictional banks should be directed to provide consumption loans to the released bonded labourer, in their respective service areas, of Rs. 2,000 per year for family under DRI scheme. Besides, these banks should provide such consumption loans to the existing bonded labourers to get them out of bond.

17.45 The Panchayati Raj Institutions (PRIs) should also be involved in rehabilitation efforts. The members of the PRIs should be given proper training and motivation in this respect.

EMPLOYMENT GUARANTEE FOR RELEASED BONDED LABOURERS

17.46 The existing legislation is completely silent on the policy guidelines to be followed in rehabilitation of bonded labourers. Rehabilitation schemes as envisaged in the past do not go beyond providing temporary relief to the released bonded labourers. Such relief is often provided in the form of disbursement of cash or at best providing help in the form of temporary assets. The very nature of such help attracts undesirable elements who wean away all the benefits meant for bonded labourers. It is, therefore, suggested that a new chapter on rehabilitation should be added to the Act providing for concrete guidelines and a clear policy for rehabilitation of bonded labourers. A provision in this regard which is considered to be of utmost importance and which must form the basis of rehabilitation concerns the *guarantee of employment to every released* bonded labourer. In fact, a beginning can be made by providing for right to work under this Act for the released bonded labourers. Unless this is done, there will always be a danger that the released bonded labourer might relapse into bondage.

LAND BASED REHABILITATION

17.47 The ultimate solution to bonded labour in agriculture is to secure their rehabilitation on land and land alone. As long as their hold and possession on land is insecure, bonded labour problem cannot be effectively tackled. There have been instances where even land allotted to bonded labourers was either not given possession or even after they had taken possession and made some improvements their possession was disturbed by the local bodies and other local functionaries. This should be frowned upon by the governments and their possession on the land be treated as sacrosanct on par with the land belonging to the government.

17.48 It is essential that all agricultural and rural development projects and programmes intended for development of land and crops should be organised in the lands of bonded labourers on a priority basis.

17.49 Land based rehabilitation needs to be more meticulously planned and vigorously implemented. Since in many villages, cultivable lands are not available, the Government of Andhra Pradesh started a novel scheme of purchasing cultivable land, developing it with irrigation facilities and then granting it to the released bonded labourers for their rehabilitation. Besides land, benefits under other anti-poverty programmes were also given. Such schemes should be drafted by all State Governments and funded under the CSS.

17.50 While granting available Government land under the respective State Land Grant Rules, the State Governments should make statutory provisions to give priority to released bonded labourers.

17.51 Many a time the land grants are made only on paper and either the beneficiary is not able to locate the land or he finds the land highly unfit for immediate cultivation. The higher authorities granting the land remain unaware of all these problems. Therefore, pattas should be given in a mass camp in the presence of the villagers. A repeat camp of the land grantee bonded labourers should be held after six months of the first camp to ensure that the grantees are able to put the land to cultivation.

17.52 Senior Revenue and Development officials of District and Sub-division levels should attend these camps along with jurisdictional banks and co-operative institutions. This will give social, economic and psychological support to the rehabilitation efforts.

NON-LAND BASED REHABILITATION

17.53 In most cases, non-land based schemes have failed to provide adequate economic returns to the released bonded labourers because the schemes, were not drafted with sufficient forethought and planning, willingness or interest of the beneficiary was not ascertained, backward and forward linkages were missing, beneficiaries did not have sufficient skills in the vocation, scheme was not integrated with other development schemes in the area and lastly, the granted assets were not insured which made the beneficiary suffer, when the animal died, for instance. Therefore, following steps are suggested:

(i) Detailed discussions should take place with the beneficiary alongwith the banker and local officials while identifying the scheme;
(ii) Backward and forward linkages should be ensured;
(iii) Beneficiary should be given suitable training under TRYSEM or DIC schemes. If necessary, special training programmes should be organised as a part of the CSS itself.
(iv) The assets must be insured before handing over to the beneficiary. Failure to do so should mean automatic transfer of the liability of insurance amount on the Block Development Officer concerned;
(v) Schemes for rehabilitation should be drafted soon after the identification so that the released bonded labourer does not have to wait to secure a gainful occupation;
(vi) Distribution of the assets should be done in open gram sabha in the presence of the Vigilance Committee Members: and
(vii) Repeat camps of the beneficiaries should be organised to ensure follow up and to remove any problems that the beneficiaries would be facing:

17.54 The Scheme of Orissa Government to provide age relaxation upto 40 years to released bonded labourers for employment under the State Government for group 'C' and 'D' posts should be adopted by all the States.

17.55 Rehabilitation programme should be so drafted as to meet the whole family needs. This could be achieved by way of effective and planned integration of the CSS with various rural / urban development and anti-poverty programmes like water supply, sanitation, mother and child care, self-employment programmes like IRDP, wage employment programmes like JRY / NRY and other development programmes like million wells programmes. The Sub-Division level Vigilance Committee can effectively do this task.

17.56 Residential schools for the children of the released bonded labourers as well as for the released child bonded labourers should be started where boarding, lodging, uniforms, textbooks, etc. would be provided at Government expense.

MIGRANT BONDED LABOUR

17.57 There are a number of instances where migrant bonded labourers have been dispatched to their State / District of origin after release but the authorities of neither of the States / Districts took responsibility for their rehabilitation. Such released bonded labourers have suffered great misery and indignity. In accordance with our recommendations No. 36(d) and (e) if the released bonded laourers are rehabilitated in the activities in which they were working as bonded labourers, this problem would be taken care of.

ACCOUNTABILITY

17.58 It would also be advisable to introduce a provision providing for statutory accountability to be imposed on the implementing authorities under the Act. A provision in this regard may be introduced in the Act on the lines of Section 4 of the Atrocities Act, which makes it a punishable offence to neglect the duties imposed upon a public servant by law.

NATIONAL COMMISSION FOR BONDED LABOUR

17.59 There should be a National Commission for Bonded labour (NCBL) on the lines of the National Commission for Scheduled Castes and Scheduled Tribes. The NCBL should be chaired by an eminent person, with a proven record of commitment and work among the rural poor and bonded labour. Among its members, representation should also be given to NGOs, experienced administrators and other organisations and individuals with a record of work and service in this area. There should also be State-level Commissioners for Bonded Labour (SCBL).

17.60 The NCBL / SCBL should be given powers to supervise the implementation of the provisions of the Act, inspect the rehabilitation schemes and make regular field tours / inspections. The report of NCBL / SCBL should be presented to the Parliament / State legislature every year.

17.61 The NCBL / SCBL should be empowered to exercise all the powers of District Magistrate and other magistrate under the Bonded Labour System (Abolition) Act, 1976.

17.62 The definition of bonded labour has at times created confusion among field functionaries in States like Bihar, Orissa, Andhra Pradesh and Madhya Pradesh. Part of the confusion is because State Governments themselves were not very clear on the definition. Such confusion hampers implementation of the Act. Therefore, there should be a single authority to clarify any doubts regarding the definitional aspects of the bonded labour. Such authority should be NCBL.

MISCELLANEOUS ISSUES

17.63 It is noticed that most of the Government functionaries are not only not motivated but also are quite ignorant about the provisions of the Act and the rehabilitation schemes. This ignorance prevails at all levels of bureaucracy. Therefore, periodic training programmes / workshops should be organised for different levels of Government functionaries relating to various departments concerned, namely Labour, Revenue, Development, Public Works and Forest. Such workshops should be convened once or twice every year.

17.64 The various features of this Act and the rehabilitation schemes should be incorporated in the design of various probationary and inservice training for civil servants of all levels.

17.65 The Government of India should identify districts where Bonded Labour System is widely prevalent. The District Magistrates of such districts should be called for a special annual review meeting by the Central Government.

17.66 The NCBL and the Government of India should convene yearly national conferences / workshops on Bonded Labour System and invite activists, NGOs, administrators and jurists committed to the programmes therein. Released bonded labourers from different parts of the country should also be invited to such conferences / workshops.

17.67 The Centrally Sponsored Scheme of Honorary Rural Organisers (HROs) has been found to be good but not being properly utilised in the field. The district and block officers under whom these HROs work should be given proper briefing about the scheme. The DGLW should carefully monitor the functioning of this scheme and take prompt corrective measures.

17.68 The key indicators being used by Government regarding incidence, release and rehabilitation of bonded labour should have separate indicators for highlighting fresh identification and time lag between identification and release. Likewise, the time lag between release and rehabilitation should also be discernable from such reports. The Annual Reports of the Ministry of Labour of the Government of India, for instance, should use such indicators.

17.69 The CAPART scheme for rehabilitation of bonded labourers through voluntary agencies has not made much progress. One reason for this is that there are no suitable and active voluntary agencies in many parts of the country. However, the village level Bandhua Sabha and the Block Bandhua Samiti could be accepted, projected and encouraged as voluntary agencies and the rehabilitation grant under this scheme could be channelised through them.

17.70 Laws, which deprive the tribals of their age-old customary rights over forests and wastelands, should be reviewed. Likewise the fact that many development projects displace tribals and other poor inhabitants from their places of livelihood needs to be widely debated to generate awareness about this issue.

17.71 Empirical studies show that the artisans who were engaged in traditional crafts and have lost the market on account of factory goods entering the rural areas are vulnerable to the bonded labour system on account of the loss of their trade and occupation. This is especially true in regard to manufacture and sale of utensils and shoes. Invasion of plastic and rubber goods in rural areas has led many artisans into bonded labour. Modernisation of their skills, equipment and programmes for improvements in their production techniques and marketing assistance are essential to safeguard this vulnerable section.

CONCLUSION

17.72 The above changes in the law are no doubt essential but would not by themselves be sufficient to eradicate the evil of slavery from our society. The problem of bonded labour cannot be viewed in an isolated manner. New dimensions of bondage are largely the product of the economic and developmental policies that we have been pursuing in the post-independent period. It is these policies which have generated bonded labour in the non-traditional sectors in a big way. Unless, therefore, the direction of these policies is changed, nothing tangible is expected to be achieved by simply changing the provisions of the Act. There is also a compelling need to vigorously implement other social legislations like the Land Reforms Act, Minimum Wages Act, Contract Labour Act, the Migrant Labour Act, the Mines Act, the Factories Act, Equal Remuneration Act, Workmen Compensation Act, the Child Labour Act and the Land Reforms Acts. The laws have been there on the statute book for a long time but largely remained on paper thereby giving a free hand to the exploiters. The executing and enforcement agencies of the law, by not implementing these laws, have been directly or indirectly colluding with the exploiters and the vested interests, and so long as this process continues, there seems to be no escape from the fact that a large section of our society will continue to live in slavery.

C- IMPLICATIONS FOR PLANNING

1. It has been observed that many developmental projects lead to displacement of people particularly tribals. These people, broken from their habitat and existing source of economic activity, are forced to seek employment elsewhere, Because of their economic vulnerability they fall easy prey to contractors and middlemen who force them to work as bonded labourers. Therefore, it is suggested that when such projects are taken up, the people who get displaced, are suitably rehabilitated. This aspect should form a part of the design of the project itself. It is true that the developmental projects cannot be done away with and they play an important role in the development of the country. However, their labour displacement effects also need to be given equal importance so that they should not contribute to the phenomena of bondedness prevailing in the country.

2. It has also been observed that many forest laws have been depriving the tribals, living in the forests or around the forests, of their age-old customary rights to collect fuel wood and other minor forest produce to create a situation where the tribals are totally broken from their existing economic activity. Deprived of their source of livelihood, they are forced to seek employment away form their natural economic habitat. This factor also contributes to the phenomena of bondedness prevailing in the country. Therefore, the planning process in the country has got to recognise the traditional rights of the tribals over their economic habitat.

3. It has been noticed that once the bonded labourers are identified and released they are not immediately rehabilitated. As a result they become even worse off as compared to the situation where they were bonded and were at least able to survive by getting two square meals. For example, in district Raipur, many of the Kamias who were identified and released were not rehabilitated by the Government. Moreover, the landlords, who had kept them earlier, did not want to take them back because of the fear of criminal proceedings against them. This leaves the poor bonded labourers in a state of lurch. Therefore, the State cannot run away from the responsibility of providing suitable employment opportunity to them. In this context, it is suggested that such endemic areas should be identified and employment guarantee scheme of the

Maharashtra variety should be started for these areas, so that they are able to earn a suitable livelihood. It is also suggested that in all such areas the village panchayats need to be provided extra funds under Jawahar Rozgar Yojana with a clear mandate that better employment opportunities be created for the released bonded labourers. Increased employment opportunities in endemic areas would ensure that the released bonded labourers do not relapse into bondedness.

4. Many of the endemic areas where there is widespread bonded labour are the most backward areas of the country in terms of availability of minimum needs and infrastructure for development. Transport and communication are very poor with the result that inhabitants lead virtually an isolated life from rest of the country. Agriculture productivity is also very low and under rainfed conditions only a single crop can be grown in a year. Under such circumstances it is important that these areas are carefully identified and then special efforts made to remove the general economic backwardness of the area. Agriculture productivity needs to be improved through provisions of irrigation and other inputs. After all, consideration of productivity cannot be divorced from the question of wages. It is common observation that wages are high in such areas of the country where agriculture productivity is high. This has a serious implication for the process of planning in the country.

5. As far as the rehabilitation strategy is concerned emphasis has to be given to rehabilitating the released bonded labourers in the existing economic activity. This can be done by making them co-sharers / partners / owners in the produce of that activity. For example, if a mining lease is found to have bonded labourers then the lease should be confiscated and given over to a Society or a Cooperative of the bonded workers engaged in that activity. The Government should help him by providing tools and marketing support. It is only as a last resort that bonded labourers should be rehabilitated on alternative sites / activities. In such cases, group rehabilitation projects should be encouraged and emphasised, as group rehabilitation leads to better economic, social and psychological rehabilitation.

6. A major cause for bondage is the phenomena of indebtedness. It has been discovered that labourers who take consumption loan

for marriage / religious ceremony / health/ other consumption needs from the landlords or the money-lenders become bonded. It is, therefore, imperative that the planning process should recognise the legitimate consumption needs of the poor labourers. The condition of released bonded labourers is still more vulnerable in this respect. In this context it is suggested that Rs. 2000 per year per family should be provided by the banks on DRI terms to the released bonded labourers so that they do not relapse into bondedness if their future consumption needs are not satisfied through the institutional sources. Jurisdictional banks should be directed to provide clean loans to the existing bonded labourers to help them throw the yoke of the bondage

7. Another important implication for planning is the question of channelising of schemes / funds The central funds for rehabilitation of bonded labour should be routed through the proposed National Commission on Bonded labour which in turn can pass on the funds to the District Magistrates / Vigilance Committee. Since the Vigilance Committees have NGOs as members, the advantages of participation of the voluntary sector in the rehabilitation of the released bonded labourers can be ensured. The schemes for bonded labourers should be formulated in consultation with the voluntary groups / activists in that area who are closely involved with bonded labour.

8. Yet another point is the need for involvement of PRIs and other bodies relating to decentralised planning in the various schemes for bonded labour.

9. It is also suggested that the central funds should flow from the Ministry of Rural Development rather than from the Ministry of Labour. This would ensure proper integration of the rehabilitation scheme for bonded labour with other anti-poverty schemes.

10. The Centrally Sponsored Scheme (CSS) should be converted into a cent percent Centrally assisted scheme.

11. CAPART should step up its activities in the sectors / projects relating to rehabilitation of released labourers.

12. Vigilance Committees should be authorised to purchase private lands, develop it for agriculture and then grant the same to released bonded labourers. This should be funded under the CSS.

3

Report of the Central Committee (A K Chakravorty) to Draw Up a Workable Definition of Bonded Labourers and the Modalities or Procedures for Identification of Bonded Labourers Submitted on 11-08-1994

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PREFACE

Existence of BONDED LABOUR in Indian Society is a National Stigma. Its eradication in all respects has been a challenge to the Government. Government of India's legislation in 1975-76 had crystallised Government's determination to root out this evil from our social system. Many efforts have so far been made in this direction by the Central and the State Governments, Voluntary organisations and various other Statutory Bodies to deal with the problem of eradication of Bonded Labour. Periodical review on the subject is made by Government of India. Hon. Minister of Labour, Government of India in one of such meetings on 15-4-93 decided that a Committee of Labour Secretaries of some of the States could examine further to draw up a workable definition of Bonded Labourers and also the modalities or procedures for Identification of Bonded Labourers, in the context of the existing provisions in the Act and Rules.

The Government of India, Ministry of Labour, constituted the following Committee for this purpose: -

(1) Shri A.K. Chakravorty - Chairman-cum-Convenor,
Additional Chief Secretary, Govt. of Gujarat,
Gandhinagar

(2) Shri D.P. Maheswari-Member,
Labour Secretary, Govt. of Bihar.

(3) Shri Iqbal Ahmed- Member
Revenue Secretary, Govt. of Madhya Pradesh, Bhopal

(4) Shri V. Govindrajan- Member
Labour Secretary, Govt. of Andhra Pradesh,
Hyderabad

(5) S.D. Bagla -Member
Labour Secretary, Govt. of Uttar Pradesh, Lucknow

The Committee so formed, held a number of meetings and also had deliberations with senior officials of the Ministry of Labour, Government of India and the State Governments. The Committee considered various Reports, Recommendations, and Administrative Instructions issued by the State and Central Governments, Judgements and Rulings by High courts and the Supreme Court, deliberations and recommendations by various Institutes, Organisations as well as those by the National Commission on Rural Labour. The Committee in the deliberations also took note of the various administrative and legal situations encountered by the Governments in dealing with the problem of Bonded Labour in the States.

It may be stated that all the above approaches and methods adopted by the Committee in its deliberations on the issues, helped to come out with certain concrete and practical suggestions to make the definition of Bonded Labour under the Act a little more flexible and consequently to accelerate the process of identification and rehabilitation of Bonded Labour. Suggestions made by the Committee in this Report may not altogether be fully innovative, but the Committee after considering various aspects of the problem has decided to give proper weightage to certain criteria in the definition as well as in the modalities of Identification.

It is hoped that the recommendations made by the Committee in this report would help further to achieve the National objective effectively in the eradication of the National Stigma of Bonded Labour System in India.

CHAPTER ONE

INTRODUCTION

1.1 Individual freedom is a basic condition of a democratic society. The Constitution of India guarantees the right to freedom which includes freedom of speech, freedom of trade and occupation, etc. The Constitution also confers the right against exploitation, traffic in human beings and forced labour.

1.2 Bonded Labourers constitute one of the most exploited sections of rural labour. It is "the relics of feudal exploitation system". Till recently, there existed in our country a system of usury under which the debtor as descendants or dependents have to work for the creditor without reasonable wages or with no wages in order to repay the debt. At times, several generations work under bondages for the repayment of such paltry sum which had been taken by some of their ancestors and interest rates on them were exhorbitant: such bondage need not be interpreted as a result of any legitimate contract or agreement. This system implies infringement of basic human rights and destruction of the dignity of rural labour. The practice of forced labour is condemned in almost in every national or international document dealing with human rights. It is interesting to find that as far as back as 1930, long before the Universal Declaration of Human Rights came into being, the International Labour Organisation (ILO) adopted Convention No. 29 laying down that every member of the ILO which ratifies this Convention shall "suppress the use of forced or compulsory labour in all its forms". This prohibition was also elaborated in Convention No. 105 adopted by ILO in 1957. The words "forced or compulsory labour" in the earlier convention had a limited meaning, but it was broadened by the definition in the above convention. Article 4 of the European Convention of Human Rights and Article 8 of the International Convention of Civil and Political Rights also prohibited forced or compulsory labour. Article 23 of the Indian Constitution is in the same strain and it prohibits forced labour in whatever form it may be found. Article 23 of the Indian Constitution reads like this:

"Right against exploitation – Prohibition of traffic in human beings and forced labour".

(1) Traffic in human beings and "beg ar" and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purpose and, in imposing such service, the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Besides, Article 35(a) (2) (ii) of the Constitution empowers the Parliament to provide punishment for those acts which are declared to be offences under this part of the Constitution wherein the Article 23 is incorporated.

In People's Union for Democratic Rights v/s Union of India, Shri Bhagwati, J., speaking for the Supreme Court, has given a new dimension under Article 23 of the Constitution of India by holding that it prohibits forced labour, i.e., labour or service which a person is forced to provide not only because of use of legal or physical force, but also because of force, resulting from economic compulsion.

1.3 To give effect to the Constitutional provisions as well as to protect the interest of Bonded Labourers, the Bonded Labour System (Abolition) Ordinance, 1975 was promulgated by the President on 24-10-75 which abolished the Bonded Labour System throughout the country. This Ordinance was replaced by the Bonded Labour System (Abolition) Act, 1976. The object of the Act is to prevent the economic and physical exploitation of the weaker sections of the society and such related or institutional matters. The Act extends to the whole of India. The Act also defines Bonded Labourer as "such labourer who incurs or has or is presumed to have incurred the bonded debt". According to the Act, "Bonded Labour" means "any labour or service rendered under the Bonded Labour System". "Bonded Labour System" means "the system of forced or partly forced labour under which the debtor enters or is presumed to have entered into an agreement with the creditors to the effect that-

(i) In consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance; or,

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of obligation devolving on him by succession; or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants or

(v) by reason of his birth in any particular caste or community,

He would

(1) render, by himself or through any member of his family or any person dependent on him, labour or service to the creditor or for the benefit of creditor for a specific period or for unspecified period either without wages or for nominal wages, or

(2) forfeit the freedom of employment or any other matters of livelihood for a specific period or for unspecified period, or

(3) forfeit the right to move freely thoroughout the territory of India; or

(4) forfeit the right to appreopriate, sell at market value any of the product of his labour or the member of his family or any person dependent on him

and includes the system of forced or partly forced labour under which a surety for a debtor enters or has or in presumed to have entered into the agreement with the creditor to the effect that in the event of failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor".

1.4 By amendment of the said Act in 1985, the system of forced or partly forced labour under the Contract Labour and Migrant Labour, required to render labour or service with similar conditions or disabilities, are also defined to be a Bonded Labour System. The wording of this amendment are as follows:

In the Bonded Labour System (Abolition) Act, 1976, in Section 2, in Clause (g) the following explanation shall be added at the end, namely:-

"(1) **Explanation**:- For the removal of doubt, it is hereby declared that the system of forced or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section (2) of the Contract Labour (Regulation and Abolition) Act, 1970 (73 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of section (2) of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subject to all or any of the disabilities referred in sub-clause (ii) to (iv) is "Bonded Labour System" within the meaning of this clause".

1.5 The above provision of the Bonded Labour System (Abolition) Act, 1976 has thus amply clarified the definition of Bonded Labour and the definition of Bonded Labour System. It has also clarified the circumstances and the conditions under which one could be considered to be a Bonded Labour or one would be considered to be under a Bonded Labour System. The various provisions of this Act have elaborated the various steps for identification of Bonded Labour and Bonded Labour System, actions for the abolition of Bonded Labour System, powers, duties and functions of the implementing authorities for identification, abolition of the Bonded Labour System and rehabilitation of Bonded Labour, etc. It has also provided the various administrative authorities and a Committee for the performance of various duties under the Act. It has also provided for various trials and actions for offences and procedures for trial and punishment under this Act.

The Act also provides detailed procedures for rehabilitation of Bonded Labour so identified and released by the process of law under the various provisions of this Act.

1.6 The Government of India gives great importance to the question of abolition of Bonded Labour System in the country, as a part of the implementation of the 20-point programme Besides the enactment of the Central Act of the Bonded Labour System (Abolition) Act 1976, amended till today, the Government of India has issued various instructions to the State Governments for the proper implementation of the provisions of the Act, identification of Bonded Labourers and their rehabilitation and monitoring the actions taken by the State Governments on the implementation of the provisions of this Act. The Minister of Labour, Government of India, under the Chairmanship of Hon'ble Union Minister of Labour frequently reviews the actions taken by the State Governments under the various provisions of the Bonded Labour System (Abolition) Act 1976 in every State of the country.

1.7 The Minister of Labour, Government of India, in one of its such review meetings of the Labour Secretaries of various State Governments under the Chairmanship of Union Minister of Labour, held on 15-4-93 in Delhi, had made an overall review of various actions under the Bonded Labour System (Abolition) Act 1976 in the various States of the country.

In this review meeting, the question of actual statistical position of Bonded Labourers, their identification, release and rehabilitation prevailing in the States were discussed. The variation of the actual number of Bondage prevailing in the

States as quoted by the Government of India, Ministry of Labour and as quoted by the ILO and other voluntary organisations were also discussed.

The question of the problems faced by the State Governments in identification, release, rehabilitation of the Bonded Labour and fixation of the targets for the rehabilitation of Bonded Labour etc. were also discussed in this meeting.

1.8 During the discussion, the Union Labour Minister referred to the decision of the Supreme Court in the matter of definition of Bonded Labour and called upon the State Labour Secretaries to work out a suitable definition of Bonded Labour for adoption by all the State Governments, so that no such persons remained under bondage due to any short comings in the definition of Bonded Labour. He also made a special mention that prosecution procedures should be strengthened to act as a deterrent for further bondage or so. He also stressed the need for extending the benefits of rehabilitation of Bonded Labour by greater utilisation of funds available under various economic and social development programmes of the Central Government as well as the Centrally Sponsored Scheme and also similar other programmes under the State Governments. The question of identification and special programmes for training and rehabilitation of Child Bonded Labour, especially in the light of the recent ILO report was also highlighted by the Labour Minister.

1.9 The representative of the Government of India, Ministry of Labour in his remarks commented on the changed condition in the industrial and agrarian centres which resulted in the problem of Bonded Migrant Labour and also the changed circumstances that led to the migration of labour from rural to industrial and urban sector. He also referred to the issues regarding identification of migrant labour, steps required to be taken to guard against the slippage of released Bonded Labour due to socio-economic conditions, fixation of responsibility of District Administration in the release and rehabilitation of Bonded Labour, adoption of a more sensitive and human approach etc.

1.10 The representative from the State of Gujarat remarked that the word "Bondage" in the scheme relating to identification, release and rehabilitation of Bonded Labour, probably needs more clarification; according to him there was a need for a fresh look on and drawing up further guidelines for an acceptable definition of Bonded Labour. As the National Rural Labour Commission has stressed, the problem of Bonded Labour was inter-linked with the massive poverty alleviation programme, payment of minimum wages, group insurance, social security scheme, old age pension scheme, provision of medical facilities, education and training for the vast masses in the rural areas etc. Thus, according to him, there appeared to be a need for coordination with various agencies, dealing with such economic and social development programmes for the proper and effective utilisation of funds provided under the bonded labour eradication scheme, poverty eradication scheme and programmes for the upliftment of SC and ST community etc. The representative from Gujarat also informed that, as per the various surveys conducted in Gujarat State during the last 10 years, only 64 cases of Bonded Labourers could be identified and were duly reported last only as back as in 1990 and since then no case of Bonded Labour has come to the notice in the State.

1.11 The representative of the Government of Tamilnadu stated that under the Child Labour Abolition Act, a sum of Rs. 6200/- was being paid per child. Rural Cooperative Banks provided financial assistance to the labourers under various schemes to enable them to earn their living. There was also an old age pension scheme in Tamil Nadu to take care of the old people.

1.12 The representative of the Government of Uttar Pradesh stated that about 27,500 Bonded Labourers have been identified and rehabilitation of all of them was mostly concentrated in the districts of Dehradun, Uttarkashi and Tehri Garwal. From the plains, only 16 districts reported some figures of Bonded Labour. He also observed that there was also a lack of enthusiasm on the part of the District Administration for proper identification and rehabilitation of Bonded Labour. He observed that there was a need for clarification of the definition and change in the methodology of identification of Bonded Labour. He also observed that most of the Bonded Labourers in many of the districts were concentrated in works in brick-kilns where they had obtained large advances from the owners. He also informed that Labour Enforcement Officers in Uttar Pradesh were assigned 10 villages each for conducting surveys for detecting Bonded Labour.

The representative of U.P. further stated that District Vigilance Committees constituted under the Act were meeting frequently; the local leaders or Panchayat leaders were involved in these district committees.

It was observed by the Chairman during the discussion that the representatives of the various State Governments could consider the possibility of adopting the Gujarat pattern of constitution of Social Justice Committee at Village Panchayat, Tehsil / Taluka Panchayat and District Panchayat levels, where normally representatives from SC/ST communities were also elected as Chairmen of these committees and that these Social Justice Committees could also be involved in the identification and rehabilitation process of Bonded Labour under the Act.

1.13 The representative of Government of Madhya Pradesh informed that the identification and rehabilitation of Bonded Labour was being done by the District Administration in the State. The meetings of the Vigilance Committees were being convened whenever there was need for releasing funds for the rehabilitation of the Bonded Labour.

1.14 The representative of the Government of Kerala Stated that in Kerala it was not possible to extend the definition of Bonded Labour beyond what had already been done. Since the problem of Bonded Labour did not exist in Kerala, no fresh programme for identification and rehabilitation of Bonded Labour had been launched.

1.15 The representative from Government of Bihar stated that the State Department also faced the problem of lack of enthusiasm on the part of the District Administration in matters of identification of Bonded Labourers, except in Chotangapur and other areas, where the action by non-Government organisations forced the Authority to take immediate measures. In Dhuma district, Bonded Labourers were identified and more than 65% of them were rehabilitated under the direction of the Supreme Court. He also mentioned that engagement of Bonded Child Labour from Bihar in the carpet making areas of Mirzapur and Varanasi had assumed alarming proportions. Their rehabilitation was a new problem which needed segmental approach under the Social Security System so that there was no relapse to bondage. He mentioned that for tackling the problem of migrant labour from Bihar in the agricultural sector in Punjab and Haryana, the State Government had decided to open an office in Chandigarh to monitor their identification and rehabilitation. In West Bengal and Delhi where there was problem of migrant labour in service and construction sectors respectively, the State was in the process of setting up field offices there. He also stated that the existence of Bonded Labour was mostly prevailing in Santal Paragana areas where S.Ts. were predominant. It was also observed by him that dove-tailing the poverty elimination and Bonded Labour Rehabilitation Schemes should be encouraged to tackle the problem of Bonded Labour.

1.16 The representative from Government of Rajasthan stated that there was a standing order for Village Patels and Patwaris to conduct surveys of Bonded Labour at least twice a year, but it was found that most of the time nil reports were received as no one would like to submit report of Bonded Labour against influential persons. He mentioned that in Ramgadh and Mandi areas labourers took advances upto Rs. 10,000/- and were forced to change the sphere of their work. Since they were paid more than minimum wages, it was doubtful whether they could be categorised as Bonded Labour. He also mentioned that as a rehabilitation strategy adopted in Rajasthan, a sum of Rs. 500./- was given to a bonded labourer as an immediate relief, which should be raised to Rs. 1000/-; agricultural labourers were allotted houses under the Indira Awas Yojana; priority is given for employment in Government jobs and special provisions were also made for children of the released Bonded Labourers. He also mentioned that where NGOs were involved in the release of Bonded Labourers, a sum of Rs. 5000/- was granted to each of them as financial assistance, which could now be raised to Rs. 10,000/- a year. On the analogy of this scheme, during discussion, it was felt that some cash incentives could also be given to an individual assisting in the release and rehabilitation of Bonded Labour.

1.17 The representative from the Government of Haryana said that in Haryana, minimum wage fixed was Rs. 39/- per day, where the labourers in agricultural sector and brick-kilns were getting not less than Rs. 45/- per day. The wages paid to workers in Haryana were attracting migrant labourers. It was also mentioned that the survey carried out by some NGOs in Haryana revealed that migrant labourers were satisfied and they wanted to stay at Haryana. Facilities like education and health were also in the process of being provided to them.

1.18 The representative from the Government of Orissa informed that the identification and rehabilitation of Bonded labourers was a continuous process and was being attended to by Labour and Revenue authorities and they were being provided houses under the Jawahar Rojgar Yojana.

1.19 The Statistical picture of the existence of Bonded labour and the number of their rehabilitation in various States of the country as on 31-3-93, is shown in the Statement in Appendix-I of the Report.

1.20 After the representatives of the various State Governments had given their views in this meeting, including the existing scenarios and their views on the different problems related to Bonded labour in their respective States, it was decided by the Government of India, Ministry of Labour that a Committee consisting of some of the Labour Secretaries of the State Governments could be formed which would go into the various aspects of the definition of Bonded Labour and the modalities or procedures for identification of the Bonded Labour, so as to enable the State Governments and the Central Authorities to take more detailed and elaborate steps for identification of truly affected persons under the System of Bonded Labour or Forced Labour as defined under the provisions of the existing Act and also to consider whether it would be necessary to make any further amendment to the various provisions of the existing Act so as to make the entire operation of defining, identifying and rehabilitation of Bonded labour more flexible and realistic.

1.21 With this end in view, the Government of India, Ministry of Labour constituted a Committee to draw up a Workable Definition of Bonded Labour and also the Modalities and Procedures for Identification of Bonded Labour, vide Ministry of Labour, Government of India letter No. V- 11016/I/93-BL dated 29-4-93. A copy of this letter regarding the formation of this Committee is kept at Annexure-II of this Report.

CHAPTER TWO

Deliberations of the Central Committee as well as Analysis by the Committee of the Various Existing Reports, Recommendations etc. on Bonded Labour:

2.1 The Central Committee for this purpose was constituted under the Chairmanship of Shri A.K. Chakravorty, Additional Chief Secretary, Department of Labour and Employment, Government of Gujarat. Before the Committee could meet, all concerned members of the Committee as well as all the other Labour Secretaries of the various State Governments were requested both by the Ministry of Labour, Government of India directly as well as by the Convenor of the Committee to furnish necessary and relevant details and information relating to Bonded Labour prevailing in the respective States, the methodology of identification of Bonded Labourers, by applying existing provisions and the clauses in the definition of Bonded Labour in the Act, inter-related matters related to definition, identification and rehabilitation of Bonded labour in the States, suggestion for amending the definition of Bonded Labour in order to make it more flexible in the context of the changing economic and social considerations prevailing in the States and also suggestions for improving the modalities on identification of Bonded Labour, so as to bring out the actual depth of the problem prevailing in the various States. In this connection, a detailed questionnaire covering the above aspects relating to information connected with Bonded Labour was duly prepared by the Convenor of the Committee and sent to all Secretaries of the Labour Departments of the various State Governments. Copy of the same is kept as Annexure III if this Report. The purpose of obtaining the above information through the above questionnaire and other details directly from the various State Governments was to enable the Committee to make an appropriate stock of the current situation prevailing in the States, and to have a detailed look into the various suggestions in respect of the two issues, viz., definition of Bonded Labour System as well as Bonded Labour in the present system in the States as well as the modalities of identification of such Bonded Labourers within the parameters in the various provisions of the Act, so as to make the definition more flexible and the operation of identification also more appropriate.

2.2 The first meeting of this Committee was held on 18-6-93 in New Delhi.

In the meeting, the members of the Committee made general references to the various recommendations made by the National Commission on Rural Labour in its report.

The representative from Government of Andhra Pradesh in this Committee raised the following issues:

(i) Whether it is at all necessary to amend the definition of Bonded labour.

(ii) Why is there a vast gap between the number of cases of Bonded Labour reported by the ILO / NGOs and Government agencies?

(iii) What are the inadequacies in the present definition of Bonded labour System as well as the procedures of identification of Bonded labour?

2.3 The representative of Government of Uttar Pradesh suggested that more stress should be given on the aspects of Forced Labour as suggested by the ILO. However, he observed that there could be some difficulties in many cases if the element of

Forced Labour is given priority while defining the Bonded Labour.

2.4 The Convenor of the Committee requested the members also to examine the following issues before arriving at certain conclusions: -

(a) Whether it is necessary to revise further the definition of Bonded Labour in the light of the observations made in the Supreme Court Judgments in the Bonded Labour cases.

(b) Whether the inclusion of the Minimum Wages Act, Child Labour Act and other labour laws will not open the flood gates for the identification of Bonded labourers.

(c) Observations of the Supreme Court in some of the important judgments delivered on Bonded Labour may also be considered for suggesting any change in the procedure for the identification of Bonded Labouers.

(d) Recommendation of the National Commission on Rural Labour may also be taken into account while crystallising the views on the related issues on the draft report of this Committee.

(e) Any other report or literature available on the subject may also be studied while preparing draft report of the Committee.

2.5 Members of the Committee from different States narrated the methodology adopted in their States about the identification and rehabilitation of Bonded Labour and also the difficulties faced by them. All of them were of the same view on adoption of simple and workable definition of Bonded Labour. It was also suggested by the Committee that information received from the various States should be discussed in the subsequent meeting.

2.6 The Committee in the meeting also went through the Recommendations of the Report of the National Commission on Rural Labour, the various recommendations and seminars organised by the National Labour Institute on Bonded Labour, compendium of circulars and instructions issued by the Government of India in connection with the definition and identification of Bonded Labouers. The Committee also perused some of the judgements delivered by the Supreme Court on the Bonded Labour System.

2.7 The second meeting of the Committee was held in New Delhi on 23-7-93.

The Committee in this meeting discussed at length the various provisions / recommendations in various Reports and Documents as mentioned below in respect of the definition and procedure for identification of Bonded Labour:

(a) Section 2 of the Bonded Labour System (Abolition) Act, 1976.

(b) Recommendations made in the ILO Conventions No. 29 and 105.

(c) Recommendations made by the National Commission on Rural Labour.

(d) Instructions issued by the Government of India in connection with the procedure prescribed for the identification of Bonded labour.

2.8 The representative from Government of Madhya Pradesh during the discussion observed that "Kamiya" in Madhya Pradesh should not be brought under the definition of Bonded labour as they were not compelled to stay with the Landlord even though they were paid advances; in his opinion, the relationship between debtor-creditor should not be the main criteria for deciding the Bonded Labour System. According to him, the definition of Bonded Labour should be expanded and the cases of exploitation of women and child labour should also be brought under the purview of Bonded Labour.

2.9 During the deliberations, it was observed by the representative from the Government of Bihar that it was difficult to suggest fool proof definition of the Bonded Labour, because of socio-economic conditions prevailing in the different States of India. Further, he suggested that "force" or "power" to keep the worker under control should be taken as the main element to decide the issue. He suggested that non-payment of wages to the workers in some of the cases should also be examined with special reference to the Bonded Labour System. According to him, the following should be given first priority in deciding Bonded Labour System:

(1) "Force" or "power" used over the worker, which does not allow him in leave his master or employer.

(2) Absence of permission to go for alternative employment.

(3) In addition to this, the following conditions may also be considered for better implementation of the provisions of the Bonded Labour System (Abolition) Act, 1976.

  (a) There should be administrative and political will to abolish the Bonded Labour System.

  (b) Higher targets should be given to the District Administration for better performance.
  (c) There should be innovative schemes for rehabilitation of the freed bonded labourers.

  (d) District level officers like Additional District Magistrate, Labour Officer, representatives from Police Department, social activists, representative of NGOs and voluntary organisations etc. should be appointed and engaged for the identification and rehabilitation of Bonded Labour.

(e) The vulnerable areas of the Bonded Labour System should be identified and detailed and rigorous efforts should be made to abolish this practice from that area by the District Administration with the help of the concerned officers and NGOs.

(f) Identification of Bonded Labour System in the migrant workers should be done by the host State.

(g) Preventive measures should be taken for abolition of Bonded Labour System.

2.10 The Committee during its deliberations also took note of the various observations made by the Supreme Court regarding Bonded Labour in some of its judgments. Some of the relevant observations considered by the Committee are reproduced below: -

(i) The Supreme Court Writ Petition No. 2135 of 1982 – definition – Bonded Labour System (Abolition) Act 1976 Section 2(d).

"Whenever it is shown that labourer has been made to provide forced labour, the Court would raise the presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is therefore a Bonded Labourer. This presumption may be rebutted by the employer and also by the State Government if it is so choses. Unless and until satisfactory material is produced, for rebutting this presumption, the Court must proceed on the basis that the labourer is a Bonded Labour and is, therefore, entitled to the benefits of the provisions of the Act. The State Government cannot be permitted to repudiate its obligation to identify, release and rehabilitate the Bonded Labourers on the plea that though the concerned labourers may be providing forced labour, the State Government does not own any obligation to them unless and until they show an appropriate legal proceeding conducted according to the rules of adversarial system of justice that they are Bonded Labourers."

(ii) "Now it is clear that Bonded Labour is a form of forced labour and Section 12 of the Bonded Labour System (Abolition) Act, 1976, recognised this self-evident proposition by laying down that every District Magistrate and every officer specified by him should inquire whether any Bonded Labour System or any other forced labour is being enforced by or on behalf of any person and if so, to lake such action as may be necessary to eradicate the enforcement of such forced labour. The thrust of the Act is against the continuance of any form of Forced Labour. It is of course true that strictly speaking, Bonded Labour means a labourer who incurs or has or is presumed to have incurred a bonded debt and bonded debt means advance obtained or presumed to have been obtained by a Bonded Labourer under or in pursuance of the Bonded Labour System and it would therefore appear that before a labourer can be regarded as a Bonded Labour, he must not only be forced to provide labour to the employer, but he must have also received an advance or other economic consideration from the employer unless he has been made to provide forced labour in pursuance of any custom or social obligation or by reason of his birth in any particular caste or community."

(iii) Supreme Court's further observation regarding identification of Bonded Labour in Writ petition No. 2135 of 1982–

"The first question that arises in regard to the implementation of the Bonded Labour System (Abolition) Act, 1976 is that of identification of Bonded Labour; one major handicap which impedes the identification of Bonded Labour is the reluctance of the administration in admitting the existence of Bonded Labour, even where it is prevailing. It is, therefore, necessary to impress upon the administration that it does not help to ostrich-like bury its head and ignore the prevalence of the Bonded Labour; though it is not the existence of the Bonded Labour that is a slur on the administration, but its failure to eradicate and moreover, not taking the necessary steps for the purpose of weeding out this blot from the face of the State, is a breach of its constitutional obligation."

(iv) "There are certain areas of concentration of Bonded Labour which could be easily identified on the basis of various reports made by Governmental authorities, Social Action Groups and Social Science Organisations from time to time. These areas of concentration of Bonded Labourers are mostly to be found in stone quarries, brick-kilns and amongst agricultural labourers and such areas must be mapped out by each State Government and task forces should be assigned for identification and release of Bonded Labourers. Labour camps should be held periodically in areas with a view to educating labourers and for this purpose the assistance of various expert Institutions associated with the organisation and conduct of such camps should be taken and even training in the work of identification and release of Bonded Labour should also be undertaken. More importantly non-political Social Action Groups and Voluntary Agencies and particularly those with a record of honest and competent service for SCs and STs, agricultural labourers and other unorganised workmen should be involved in the task of identification and release of Bonded Labourers for it is primarily through such Social Action Groups and Voluntary Agencies alone that it will be possible to eradicate the Bonded Labour System, etc etc…."

"We would, therefore, direct the Vigilance Committees as also the District Magistrates to take the assistance of non-political

Social Action Groups and Voluntary Agencies for the purpose of ensuring implementation of the provisions of the Bonded Labour System (Abolition) Act, 1976."

(v) In another judgment by the Supreme Court in Sarjit Roy v/s State of Rajasthan, with special reference to the violation of the provision of Article 23 of the Constitution of India, the Court observed:

"What Article 23 prohibits is 'forced labour', i.e., labour or service which a person is forced to provide; 'force' which would make such labour or service 'forced labour', may arise in several ways. Any factor which deprives a person of a choice of alternatives and compels him to adopt one particular course of action may be properly regarded as 'forced' and if labour or service is compelled as a result of such 'force', it would be 'forced labour'." The Court further observed that "the word 'forced' must therefore be construed to include not only physical and legal force, but also force arising from the compulsion of economic circumstance which leaves no choice of alternative to a person and compels him to provide labour or service even though the remuneration received for it is less than the minimum wages." The Court further observed, "we are of the view that where a person provides labour or service to another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the word 'forced labour' under Article 23. Those persons who provide such labour and service to another are entitled at least to the minimum wage and if anything less than the minimum wage is paid to him, he can complain of violation of fundamental rights under Article 23 and ask the Court to direct payment of the minimum wages to him so that the breach of Article 23 may be abated."

2.11 The Committee also took note of the ILO's observation on Bonded Labour in ILO Convention No. 29 which is as below: -

"For the purpose of this Convention, the term 'forced compulsory labour' shall mean work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." However, for the purpose of this Convention, "the term 'forced or compulsory labour' shall not include

(a) any work or service exacted in virtue of compulsory military service or for work of purely military character.

(b) any work of service which forms part of the normal civic obligation of the citizen of a fully self-governed country;

(c) any work or service exacted from any person as a consequence of conviction in a court of law, provided that the said work or service carried out under the supervision of an authority and that the said person hired to or placed at the disposal of private individual, company or Association.

(d) any work or service exacted in cases of emergency, i.e. to say in the event of war or of calamity such as fire, flood, famine, etc.

(e) minor community service of a kind which being performed by members of a community in the direct interest of the said community, can therefore be considered the normal civic obligation incumbent upon the members of the community provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services."

2.12 The Committee also deliberated on the observation of the National Commission on Rural Labour on the definition of Bonded Labour and Bonded Labour System. The remarks of the Commission are reproduced below: -

"(a) Bonded labour means labour which compels one to render labour under the Bonded Labour System.

(b) Bonded Labour System means any system of forced or partly forced labour under which a debtor or any person-

- (i) in consideration of an advance obtained by him or by any of his lineal ascendants / descendants (whether or not such advance is evidenced by such document) and in consideration of the interest, if any, due in such advance; or

- (ii) in pursuance of any customary or social obligation, or

- (iii) in pursuance of an obligation devolving on him by succession, or

- (iv) for any economic consideration received by him or by way of his lineal ascendants or descendants; or

- (v) by reason of his birth in any particular caste or community, is required

    - (1) to render, by himself, or through any member of his family, or any person dependant on him, labour or service to the creditor, or for the benefit of the creditor for a specified period or unspecified period, either without wages or for nominal wages.

    - (2) to forfeit the freedom of employment or other means of livelihood for a specified period or for unspecified period; or

    - (3) to forfeit the right to move freely throughout the territory of India, or

(4) to forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of the members of his family or any person dependant on him,

and includes the system of forced or partly forced labour under which the surety for a debtor enters or has is presumed to have entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the Bonded Labour on behalf of the debtor;

Explanation

For the removal of doubt, it is hereby declared that any system of forced or partly forced labour under which any workman as defined under any law for the time being in force or under any agreement for contract, if required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or his subject to all or any of the disabilities referred to in sub-clauses (2) to (4), is "Bonded Labour System" within the meaning of this clause."

The above recommendation of the National Commission on Rural Labour is to be read with the corresponding definition of Bonded labour and Bonded Labour System under Section 2 of the Bonded Labour System (Abolition) Act, quoted verbatim in earlier paragraphs of Chapter One of the Report, for a better comprehension and comparison of the existing definition as well as the proposed definition on Bonded Labour by the National Commission on Rural Labour.

2.13 The Committee also deliberated on the clarifications and guidelines on the definition and identification of Bonded Labour contained in the Government of India, Ministry of Labour D.O. letter No. Y-11011-3-82-BL dated 16-8-83; relevant portion of this letter is reproduced below:

"From the above, it would be seen that this definition contains a series of alternatives. Bonded Labour essentially represents a relationship between the creditor and the debtor when such relationship exists; and when the debtor undertakes to mortgage his services or the services of any of his family members to the creditor for a specified period or for an unspecified period under the prescribed conditions, he comes within the definition of Section 2(g); in other words, "he becomes a Bonded Labourer, as he renders Bonded Labour or service to the creditor. To make the issue abundantly clear, it may be stated that either of the four alternatives given in Section 2(g) together with an element of loan, debt, advance would be enough to determine the existence of Bonded Labour System as defined in that Section."

2.14 The Committee also deliberated in detail the various aspects regarding identification of Bonded Labour and Bonded Labour System. The detailed provisions for the identification of Bonded Labour are made in Bonded Labour System (Abolition) in1976. As per the provisions of Section 12 of the Act it is the responsibility of every District Magistrate or every officer specified by him to enquire whether any Bonded Labour is being enforced by or on behalf of any person residing within the local limits of his jurisdiction and if, on such inquiry any person is found to be enforcing Bonded Labour System or any other system of forced labour, the District Magistrate is required to take necessary action to eradicate the enforcement of such forced labour. The constitution and functions of the Vigilance Committees as specified under Sections 13 or 14 of the Act, also specify the various steps for proper identification of Bonded Labour and Bonded Labour System for proper implementation of the provisions of the Act.

2.15 The Committee also specially took note of the following salient features of some of the guidelines issued by the Government of India for the Identification of Bonded Labour .

(1) Guidelines in the Government of India D.O. letter No. M/ 13011.6.82-BL dated 24-6-82: -

Government of India observed that it is necessary to identify all the released Bonded Labourers in an area urgently and to rehabilitate them immediately as a time-bound programme; task force at the Block level consisting of local development and revenue officers should conduct Block-wise surveys of Bonded Labour. In such task force even a representative of Bonded Labour who had earlier been identified, released and rehabilitated may be nominated by the District Vigilance Committee; the Task Force shall conduct surveys through VLW and Patwari etc. They can fix one day in a week on which they will sit together in the village office specially to attend to identification of released Bonded Labour; for the purpose of rehabilitation, a time-limit of three months may be fixed within which application should be made with all necessary details to the District Magistrate and to the District Vigilance Committee. The Task Force will scrutinize all the applications and verify the facts to specify about the correctness and will make their recommendations to the Sub-Divisional Vigilance Committee. The final decision will rest with the District Vigilance Committee.

(2) In the guidelines issued by Government of India, vide its D.O. letter No. V/11016.1 3/82-BL dated 30-8-82, it was mentioned that –

(i) Identification may be done through House-Hold Survey by Revenue Department officials with the help of other field agencies like Directorate of Economics and Statistics, Zonal Directorate of Backward Classes Welfare, Tribal Research Bureau and other agencies and to act on the lines of the survey done by the National Sample Survey Organisation field units.

(ii) Such identification can also be done during the survey or census undertaken for identifying the target groups for allotment of village house sites / houses.

(iii) Survey could also be integrated with the preparation of village plan under the various development programmes.

(iv) Intensive studies and surveys may be undertaken in respect of stone-quarry and brick-kilns to locate Bonded Labour. All such surveys should be completed within a time-bound programme.

(v) Due cognizance may be given to newspaper reports highlighting the existence Bonded Labour and immediate action be taken.

(vi) Publicity campaigns to bring out better awareness about the problem of identification and rehabilitation of Bonded Labour among all the concerned should be launched and intensified further.

(vii) In respect of executing the work of the identification and rehabilitation of Bonded Labour in different departments of the Government, it is necessary that the activities of the Vigilance Committees at the District and Sub-Divisional Levels should be monitored, coordinated and evaluation at the State level by State Level Standing Committee on Bonded Labour under the Chairmanship of the Minister-in-charge and all works of various Departments are coordinated through a single source.

(viii) In addition to the Government machinery, individuals and institutions dedicated to the cause of labour and individuals of commitment and reputation can also be associated in the task of identification and rehabilitation of Bonded Labour.

(3)

(i) The importance of the role of the Vigilance Committees in the identification of Bonded

Labour is analysed in the Government of India's letter No. M-13011.93/82-BL dated 7-3-84. As contained therein, one important task of the Vigilance Committees is to detect the incidence of Bonded Labour in the District / Sub-Division concerned and also to prevent recurrence of the system, besides identification and releasing such Bonded Labour.

(ii) As mentioned in the guidelines containing Government of India's D.O. letter No. M/13011/42/84-BL dated 16-10-84, proper attention should be paid to the reports given by Voluntary Agencies and newspapers also, so far as the identification of Bonded Labour is concerned. The entire programme should be viewed in an integrated manner involving the Voluntary Agencies and Social Action Groups dedicated to the cause of Bonded Labour and pooling resources from different sources for securing a permanent and effective rehabilitation of freed Bonded Labourers. In the Government of India's D.O. letter No. U-11016/10/82-BL dated 24-5-82, it was emphasised that due cognizance may be given to newspaper reports highlighting the existence of the problems of the Bonded Labour and proper publicity campaigns should be undertaken to bring out better awareness about the problems of identification and rehabilitation of Bonded Labour among all the concerned. Also due weightage should be given to the complaints made by the Voluntary Agencies and Social Action Groups regarding the existence of the problems of Bonded Labourers and provide relief to the aggrieved labourers in accordance with the provisions of the Bonded Labour System (Abolition) Act, 1976.

(iii) To enlist active and cooperative involvement of the Voluntary Agencies and Social Action Groups in this programme and also to view the Public Interest Litigation in such matters in correct perspective and implement the directions of the Supreme Court in right earnest and in letter and spirit, to make efforts to suitably integrate various centrally sponsored schemes like IRDP, NREP, Special Component Plan for SCs, Tribal Sub-Plan, Bank Loan etc. and the resources, available under these schemes, should be pooled together for securing an effective rehabilitation of Bonded Labourers. The penal provisions under the Bonded Labour System (Abolition) Act, 1976 should also be enforced strictly, Registers required under Rule 7 of the Bonded Labour System (Abolition) Rules, 1976 should be maintained correctly and up-to-date. These Registers should be reviewed by the District Collector once in a month. Sample surveys may also be conducted to find out the whereabouts and present status of the released / rehabilitated Bonded Labourers as well as the incidence of relapse into bondages. There should be a State Level Standing Review Committee to monitor and review the programme of identification, release and rehabilitation of Bonded Labour and consider the related issues.

(iv) In the plan of action prepared by Government of India vide its letter No.Y-11011/1/87-BL dated 29-10-87, the emphasis was given for involvement of Voluntary Agencies for identification and rehabilitation of Bonded Labourers. It was emphasised that House-Hold Surveys should be conducted in the respective States / Union Territories for ascertaining the actual number of Bonded Labourers in each State / Union Territory so that a time-bound programme may be framed for their rehabilitation. It was further clarified therein that: -

(a) Identified / elected Voluntary Agencies could be made responsible for identification as well as rehabilitation of Bonded Labourers. The agencies can take up only identification or rehabilitation of Bonded Labourers.

(b) The Voluntary Agencies would submit lists of identification of Bonded Labourers to competent authorities and pursue the matter till a decision of the Authority as to whether persons mentioned by them are Bonded Labourers or not, is given and release certificates are issued.

(c) Agencies may also consider lodging a report to the Police in terms of the provisions of the Bonded Labour System (Abolition) Act, 1976 like any other individuals.

2.16 The Committee also perused and considered some salient observations made at various studies, reports / seminars on the identification of Bonded Labour. A few of the observations were found by the Committee relevant to be mentioned in this Report:

(a) It is observed sometimes that administration is touchy and avoids admitting the existence of the Bonded Labour even where it exists. This becomes an additional handicap over and above other obstacles like absence or inadequacy of sound Voluntary Organisations and local resistance of keepers of Bonded Labour to admitting the existence of Bonded Labour. Administration requires to be reoriented in this regard. In any case, the governing principle should be only the truth as to whether a particular individual is a Bonded Labourer or not and whether in a particular place the Bonded Labour System is existing or not. Any other consideration is extraneous.

(b) Proper sensitisation of the Government machinery to this acute human problem and the socio-economic parameters needs to be taken up by each State Government as a basic task.

(c) The District Magistrate should play a central role under the Act. All State Governments should therefore, lay down the task of identification of Bonded Labour as one of the top priority tasks of the District Magistrates. The D.M. should also be asked to encourage Voluntary Agencies as well as officers of other Departments to bring to the notice of competent authorities the existence of Bonded Labour in every District. Other cases so reported should be carefully investigated and further action taken thereon.

(d) The Vigilance Committees in every District must be fully activised and reactivised.

(e) In addition to taking necessary support from reputed Voluntary Agencies, other agencies which could be fruitfully associated in the identification of Bonded Labourers, are

  (i) Associations set up for identifying and releasing Bonded Labourers.

  (ii) SC and ST students especially those belonging to Bonded Labour and landless agricultural labour families and other students who opt for N.S.S and are also from landless agricultural labour families, having a personal and rural background, should also be associated with this work by the initiative of the District Magistrate and other labourers who are trained should be actively associated with the work of identification and even release and rehabilitation of other Bonded Labourers.

(f) Identification of areas of concentration of Bonded Labour was also highlighted in such Recommendations. It was felt that it is possible to identify such areas on the basis of existing labourers and documentation made by various Studies and Reports as well as the actual number identified so far. Such areas of concentration could be mapped out in each State. Further it was observed that areas of concentration should be mapped out not only with reference to actual identification, but also on the basis of Studies, Reports and other information available. Those areas in each study should be taken up for intensive efforts. Task Force of officers drawn from different Departments and other agencies should be constituted, for intensive survey and identification of Bonded Labour. Rural Labour Camps also should be held systematically in the areas of intensive surveys for the purpose. In such labour camps, individual organisational capability or potentiality should be identified and given further training in the work of identification and organisational rehabilitation of Bonded Labour. Proposals regarding Bondage should be always in favour of the persons identified or noted through representation, complaint etc. In case of SCs and STs and other landless agricultural labourers, whenever they claim to be Bonded Labourers, the presumption should be in favour of their claim and investigation should be followed-up accordingly. The process of identification as well as release and rehabilitation of Bonded Labourers should be simultaneous. Further, the identification of Bonded Labour should be taken up as a continuous process as the base of identification of Bonded Labour has not been the same everywhere and all Bonded Labourers have not been identified. There is no alternative but to continue the process of identification until such time as the entire Bonded Labour System is rooted out from those areas. There should be a continuous process of operation of socio-economic development in the system, so as to reduce the possibilities of recurrence of Bonded Labourers in these identified areas. Therefore, in addition to identifying, releasing and permanently rehabilitating Bonded Labour which have already come into existence, it is also important to identify and undertake measures to prevent fresh accretions to these categories. It is also necessary to have a supporting system to acitivise the activities of the Task Force and official agencies in the matter of identification, release and rehabilitation of Bonded Labour. Groups of eminent persons of the society should also be allowed to identify villages, talukas and districts and help the authority in the entire process of identification, release, (which incorporates immediate and short-term release) and full and permanent rehabilitation of the Bonded Labourers in order to provide necessary feed-back and other practical suggestions to the authorities for improvement.

2.17 As mentioned earlier, the committee also took note of the observations made by the Supreme Court in matters of identification of Bonded Labour. The Supreme Court, inter-alia, observed that "the District Magistrates have a central role to play under the provisions of the Act. Therefore, State Governments should instruct the District Magistrates to take up the work of identification of Bonded Labour, as one of their top priority tasks. Non-Political Social Action Groups and Voluntary Agencies and particularly those with a record of honest and competent service for SCs and STs, agricultural labour and other unorganised workmen should be involved in the task of identification and release of Bonded Labourers; through such Social Action Groups and Voluntary Agencies alone that it will be possible to eradicate Bonded Labour System. We should therefore direct the Vigilance Committees as also the District Magistrates to take the assistance of non-official Social Action Groups and Voluntary Agencies for the purpose of ensuring implementation of the provisions of the Bonded Labour System (Abolition) Act, 1976."

2.18 The committee also took note of certain salient observations made by the National Commission on Rural Labour in its Report on the aspect of identification of Bonded Labour.

(a) It is necessary to conduct a country-wide census of Bonded Labour in the districts with concentration of Bonded Labour. The sample survey could be done periodically once in five years to get more details on the infrastructure in the district and characteristics of Bonded Labour to prepare schemes and to monitor the situation from time to time.

(b) For the purpose of identification and census / survey, the Central Data Collecting Organisation may be entrusted with the job assistance and involvement in documentation of Non-Governmental Organisations. Sample surveys can also be got done through the National Sample Survey Organisation.

(c) Efforts should be made for generation of awareness, confidence building and psychological rehabilitation in matters of identification and release of Bonded labour. Rural Labour Camps should be organised on a country-wide basis to undertake such tasks with the help of Governmental as well as Voluntary Agencies. Training and workshops could also be organised for the functionaries involved in identification and rehabilitation of Bonded labour, to motivate them and to generate the required attitude and empathy. Such camps should be periodical and not once for all affairs.

(d) In order to generate confidence in this system, an effective enforcement of the Act is required. The process of identification, release and criminal prosecution of the employer of Bonded Labour, as far as possible should be an integrated action.

2.19 The Committee during the deliberation also took note of detailed clarification by Ministry of Labour, Government of India's D.O. letter No. U.11016/13/82-BL dated nil on the aspects of identification of Bonded Labour. It pointed out, inter-alia, that identification of Bonded Labour, release of Bonded Labour from its bondage and rehabilitation of freed labour, form an integral function in the implementation of the Bonded labour System (Abolition) Act, 1976. It also clarified that Rule 7 of the Bonded Labour System (Abolition) Rules, 1976 gave clear and un-ambiguous direction that in order to ensure the implementation of the provisions of the Act, every District Vigilance Committee should maintain the following Registers in respect of freed Bonded Labourers within the local limits of their jurisdiction, namely-

(a) Registers containing the names and addresses of the freed Bonded Labourers.

(b) Registers containing statistics relating to vocation, occupation and income of every freed Bonded Labourere.

(c) Register containing details of the benefits which the freed Bonded Labourers are receiving, including benefits in the form of land, inputs for agricultural training and allied occupation, loans at different rates of interest from employment in urban areas or semi-urban areas. It was clarified that persons initially identified and released are required to be rehabilitated under various schemes of the State Governments or the Central Government, only after taking into account the socio-economic background of the freed Bonded Labourers, their aptitudes, skills, preferences and felt needs, whereabouts and further details about these Bonded Labourers identified and released should also be continuously monitored, while preparing their rehabilitation schemes. In this context also the maintenance of the Registers of the identified Bonded Labourers under the said Rule 7 would be very useful. A detailed and integrated approach is required, where components of identification, release and rehabilitation of Bonded Labour should be undertaken for a successful operation of the entire scheme and they should not be viewed in isolation from each other. Therefore it was urged in this Circular that the District Magistrate and the District Vigilance Committee must ensure the following in matters of these integrated functions, namely, identification, release and rehabilitation of Bonded Labour.

(i) Registers as required under Rule 7 are maintained correctly and up to date.

(ii) Efforts to trace whereabouts of Bonded Labour who are identified and released but whose whereabouts are not traceable, continue to be unabled.

(iii) Schemes for rehabilitation of Bonded Labourers be formulated only after ascertaining the whereabouts of such persons as well as after identifying their socio-economic background, aptitude, skills, preferences and felt-needs etc.

2.20 A draft Report based on the deliberations held in the previous meetings of the committee as well as the materials placed before the committee was prepared and circulated among the members of the committee for their consideration and further suggestions. The third meeting of the committee was held on 7-5-94 at New Delhi to consider further the Draft Report and to finalise the Recommendations of the Report.

The following special points emerged in the deliberations of this meeting:-

(1) The elements of "Forced Labour" are to be elaborated in the Chapter of Recommendations of the Report.

(2) The eradication, identification and rehabilitation of Bonded labour should be taken up as 'priority programme" at all levels - Central, State and District. The District Authority should accord top priority in this programme.

(3) The process of identification of Bonded Labour required detailed and constant investigation. The areas and employments which are vulnerable from the point of Bonded Labour System are required to be checked thoroughly through official and non-official sources. Therefore, this process requires more funding from the Central sources. As this being the important stage in the implementation of the provisions of the Bonded Labour (Abolition) Act, 1976, the survey and identification of Bonded Labour should be funded from the Central assistance.

(4) The task of identification and eradication of Bonded Labour should be target oriented at Central, State and District levels. Such targets for each District should be decided by the District Vigilance Committee and State Vigilance Committee has to be approved also by the Central Government.

(5) Institutional arrangement for identification of Bonded Labour should be made right from the Central Government to the Districts on the lines of DRDA/Jawahar Rojgar Yojana, etc. Such structural arrangements will bring cohesion in the Central, State and Districts' administration in the matters of Bonded Labour Identification, Abolition and Rehabilitation works.

(6) Stricter implementation of provisions of Minimum Wages Act, 1948, Inter-State Migrant Workers' Act and Contract Labour (Regulation and Abolition) Act by the State and District Administrations is to be ensured so that such

workers may not in the long run become Bonded Labour.

2.21 The Committee further deliberated on the existing provisions of the definition of Bonded Labour System in the present Act. The existing legal definition has three distinct elements:

(i) Bonded labour exists as a type of master/servant relationship.

(ii) There also exists a debtor-creditor relationship where the labourer is the debtor while the creditor is the master.

(iii) Master uses force because of which a servant is compelled to work for the master and the former does not have the freedom to exercise his will.

According to this legal definition, bondage exists in any relationship which has the above elements. Since Bonded Labour is a hereditary one, the Bonded Servant generally serves the master for a long time. Thus the system ensures life long services for the master and the servant cannot leave him till the repayment of debt. However, as mentioned earlier, the Supreme Court in one of its judgements has caregorically stated that the said Act recognises a self-evident proposition that Bonded Labour is the form of forced labour and therefore duties are cast on the District Magistrates and other officers concerned to inquire whether any Bonded Labour System or any other form of Forced Labour is being enforced by or on behalf of any person and if so, to take such action as may be necessary to eradicate the enforcement of such Forced Labour. The thrust of the Act is, therefore, again on the continuance of any form of Forced Labour. The Court further observed that "whenever it is shown that a labourer is made to provide Forced Labour, the court would raise a presumption that he is required to do so in consideration of any advance or economic consideration received by him and is therefore a Bonded Labourer. This presumption may be rebutted by the employer and also by the State Government if it so chooses, unless and until satisfactory evidence is produced for rebutting this presumption and the court must proceed on the basis that the labourer is a Bonded Labourer, entitled to the benefits of the provisions of the Act."

From the observation and analysis made by the Supreme Court and others on the element of Debt and the element of Force in the definition of Bonded Labour, the Committee felt that both these elements are especially important and also inter-related. The Committee specially took note of the wording in the Supreme Court judgement in this respect, namely that the word "force" must, there fore, be construed to include not only physical force, but also force arising from the compulsion of economic circumstances which leave no choice of a person in want and compels him to provide labour or service even though remuneration received for it is less than the minimum wages. But the Committee feels that breach of the provisions of any labour laws (save and except what is already provided for in the Act), need not be brought automatically under the purview of the definition of Bonded Labour System and Bonded Labour. Of course, if the Inquiry Officer during any such investigation comes to a conclusive decision to any such existence of inter-linking elements of Forced Labour, debtor and creditor relationship and also non-payment of minimum wages in any such cases, thus, manifesting the existence of some Bonded Labour System in such case within the ambit of the provisions of the Act, he may treat such cases under the Bonded Labour category. The Committee feels that otherwise any such pre-determined pattern or linkage will unnecessarily open the flood gates of treating all such individual complaints as complaints of Bonded Labourers which in reality may not be true.

However, in view of the above position, the Committee during deliberations felt that the present definition of Bonded Labour and Bonded Labour System as contained in Section 2 of the Act could be made a little more flexible by incorporating the element of Forced Labour within the existing criteria contained in the present definition of Bonded Labour under the Act.

2.22 The Committee after deliberation as above, felt that the revised definition of Bonded Labour may therefore **broadly contain the following elements:**

a. Bonded Labourer means labourer who incurs or is presumed to have incurred a bonded debt:

b. Bonded Labour System means a system wherein a labourer who is forced to work / render labour on account of incidence of his birth or any other social system prevailing in the areas of his birth, his caste, creed or relationship in the manner where either no remuneration is paid or less than reasonable remuneration is paid to him against the work rendered by him in this system and in a manner overtly or covertly indicating an element of force in the arrangement of his employer, which on paper may appear to be a regular one, but in a sense is nothing but a camouflage to suppress the real nature of the element.

The committee felt that the definition "Bonded Labourer" could therefore be restructured in the following manner so as to cover all the above elements in this definition.

"Bonded Labourer means a labourer who incurs, or has, or is presumed to have incurred a bonded debt, and/or who is compelled to render Forced Labour under the Bonded Labour System."

Correspondingly the committee felt that the existing definition of "Bonded Labour System" could also be slightly modified as below:-

"Bonded Labour System" means any system of forced or partly forced labour, under which a debtor enters, or has, or is presumed to have entered into an agreement with the creditor, and/or any system of forced or partly forced labour under which any person renders such services of forced labour, to the effect that… etc. etc."

(that means the remaining clauses of section 2(g) of the Act would remain as it is).

The committee also observed that the existing clause under Section 2 of the Act as amended in 1985 arising out of the

Supreme Court judgement in the matter (i.e. the Bonded Labour System (Abolition) Amendment Act, 1985 (No. 73 of 1985) may continue as it is. However, the Committee also felt that in this existing explanation clause under the Act, the element of child labour as provided in the Child Labour (Prohibition and Regulation) Act, 1986, may also be incorporated so as to cover them under any of the Clauses of Disabilities Section of Bonded Labour and Bonded Labour System under the Bonded Labour System (Abolition) Act, 1976.

The Committee further observed that in Chapter VI (Offence and Procedures for Trial under Sections 16 and 18) of the Act, the words "Bonded Labour" wherever they occur, the following words can be substituted, i.e.,

"Bonded Labour or any other system of Forced Labour within the ambit of the definition in Section 2 of the Act."

Correspondingly the Committee observed that in Section 6(6) and 6(7) of the Act, for the word "creditor", wherever it occurs the word "creditor or such person" may be substituted. Similarly, in Section 6(5) of the Act after the word "creditor", the word "any other person" may be added; and after the words "for the recovery of any Bonded debt" the words "for endorcement of any obligation under the Bonded Labour System including the recovery of any Bonded debt" may be added.

The Committee also observed that in Sections 6, 7 and 9 of the Act, for the words "liabilities to repay Bonded debt" wherever they occur, the following words may be substituted:-

"Every obligation under the Bonded Labour System including the liability to repay bonded debt."

The Committee also opined that similarly the title of Chapter III of the Act, namely, "Extinguishment of Liability to Repay Bonded debt" may be substituted by the following words:-

"Extinguishment of every obligation under the Labour System including the liability to repay bonded debt."

2.23 The committee also observed during deliberations on the definition and identification of Bonded Labour, that even the existing provisions in the definition of Bonded Labour and Bonded Labour System in the Act could be adapted in a more flexible manner by exercising the following administrative criteria in the operation of the definition which were already clarified by Government of India and some of the State Governments from time to time through various Circulars.

(i) Sometimes it is noticed that the amount advanced by the landlord have been extinguished under Section 6(1) of the Act, but the Bonded Labourers have not been released.

Looking at the provisions of Section 2(b), Section 2(d), Section2(f) and Section 2(g) of the Act, it may be accepted that whenever there is a bonded debt, there is always a Bonded Labourer. It is therefore not correct merely to extinguish the bonded debt as required under Section 6(1) of the Act, but not relieve the Bonded Labour. Therefore, in the cases where bonded debt is extinguished the Bonded Labourer concerned has also to be automatically identified, released and rehabilitated.

(ii) Sometimes it is found that Bonded Labourers have not been released merely on the ground that the laboureres have left the landlord for sometime past or a few months earlier. This is not the correct approach. Every Bonded Labour under the provisions of the Act has to be released and rehabilitated, even if he had left the landlord earlier, but after commencement of the Act, may be for the purpose of convenience. The date of representation of the Bonded Labour or date of inception or investigation by the officer whichever is earlier, can be taken as the relevant point of time for deciding whether he is to be identified as Bonded Labourer or not. In other words, if a person was a Bonded Labourer from the date of operation of his application or representation during the visit of Inquiry Officer, whichever is earlier, he should be treated as a Bonded Labourer and as such identified, released and rehabilitated.

(iii) Sometimes it is observed that in some cases Bonded Labourers have not been released on the ground that they have been working with the landlord for less than one year or some period of time. This is not a correct approach, as the Act does not provide for any minimum period. On the other hand, Section 2(g) of the Act stipulates that Bonded Labour System means any such agreement for labour either for a specified period or unspecified time. Hence the period of bondedness by itself cannot be a ground for not treating a person as Bonded labour:-

(iv) In some cases it is noticed that instead of going into the question of Bonded Debt, Bonded Labourers and Bonded Labour System, it has been merely mentioned that labourers did not forefeit the freedom of employment or the right to move freely or right of sale at market value, any of the property or product of his labour etc. Whereas it is seen that from the provisions of Section 2(g) of the Act that various alternatives are already indicated by the term "or". If the labourer speaks of bonded debt, i.e., a debt or advance obtained on the understanding that he would work for the landlord till the debt is repaid, the burden or proof would shift to the landlord under section 15 of the Act that it is not a bonded debt.

(v) Even under Section 12 of the Act, stipulation for identification is very clear, under which it shall be the duty of every District Magistrate or every officer specified by him under Section 10 to enquire whether, after the commencement of the Act, any Bonded Labour System or any other form of Forced Labour is enforced by or on behalf of any person resident within the local limits of his jurisdiction, and if, as a result of such inquiry any person is found to be enforcing the Bonded Labour System or any other system of Forced

Labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such labour. Thus, the Committee felt that the will of the Authority as mentioned in Section 12 of the Act shall play an importatnt part in identifying, releasing and rehabilitating Bonded Labourer, even under the existing provisions of the Act, in an appropriate manner.

2.24 The Committee also observed that in the matters of identification of Bonded Labour, the three components of identification, release and rehabilitation are not to be viewed in isolation from each other, but are to be taken as parts of an integral whole, in which the processes are closely related, one leading to the other. It is only through such a total integrated approach that the process of identification of Bonded Labour would be more meaningful.

2.25 On the lines of the observations of the various Expert Committees, quoted earlier, the Committee is also of the opinion that the formation of the District Level Vigilance Committee as well as the Sub-Division Level and Taluka / Tehsil Level Vigilance Committee and their functions through the choice of right type of persons, with the right calibre, perspective and commitment to this programme and close watch and supervision of the functions of the Vigilance Committees through the Review Committee at the State Level would make the purpose of such Committees more meaningful and effective.

2.26 The Committee is also of the opinion that in the matter of identification of Bonded Labour, which is closely related with the subsequent works of release and rehabilitation, the role of the Social Justice Committee constituted under the District, Taluka / Tehsil and Village Panchayat Levels would also be useful for the purpose of identification, release and rehabilitation of Bonded Labourers. The Committee therefore feels that wherever the Panchayat Raj Institutions have been established at all the three tiers, the Social Justice Committee consisting of representatives from SCs, STs and other economically and socially backward classes, should be formed and this Committee should be asked to work in close coordination and under overall supervision of the District Level Vigilance Committee in matters of identification, release and rehabilitation of Bonded Labour.

2.27 The Committee was also of the view that integration of various socio-economic development programmes in the rural areas should be enforced fully as far as possible, in order to enable a State to spread its network of welfare activities in a more coordinated manner and specially in the areas where incidence and concentration of Bonded Labour activities are noticed. For this purpose, the Committee feels that the Poverty Alleviation Programmes of the Government should be intensified in those identified and earmarked areas where such social evils like Bonded Labour System are still noticed.

CHAPTER THREE

Summary of Recommendations of the Committee on

a. Definition of Bonded Labourers and
b. Modalities or Procedures for Identification of Bonded Labourers

3.1 As enunciated in Chapter One and Chapter Two of the Report, the Committee has considered in great detail the various existing provisions of the Bonded Labour System (Abolition) Act, 1976 and the Rules made thereunder. The Committee also considered in detail the various observations made by the Supreme Court of India, reports and studies of various seminars and workshops and study, reports, instructions and guidelines submitted by the Central and State Governments and other institutions on the issue of Bonded Labourer. The Committee has analysed many of the important observations and remarks on the definition and identification of Bonded Labour in the foregoing Chapter Two of the Report. Based on the above deliberations and analysis in Chapter One and Chapter Two of the Report, the Committee would like to list the following suggestions, observations and recommendations in respect of the definition and modalities of identification of Bonded Labour.

(a) Definition:-

3.2 The element of 'Forced Labour' may be given high priority to decide the cases of Bonded Labourer. However, the existing element of debtor-creditor relationship, as already mentioned in the existing provisions of the Act, should also be taken into account as one of the major elements for deciding the existence of Bonded Labour. The word "Force" must be construed to include not only physical force, but also force arising from the compulsion of economic circumstances which leave no choice of a person in want and compels him to provide labour or service even though such services rendered are far from the normal legal norms.

3.3 For this purpose, the definitions of "Bonded Labourer" and the "Bonded Labour System" could be made, a little more flexible by incorporating the element of 'Forced Labour' in the relevant clauses and the provisions of Section 7, Section 8, Section 9 and Sections 16 and 18 of the Bonded Labour System (Abolition) Act, 1976 in the following manner:

(a) "Bonded Labourer" means a labourer who incurs or is presumed to have incurred a bonded debt, and/or is compelled to render Forced Labour under the Bonded Labour System.

(b) "Bonded Labour System" means any system of Forced or partly Forced Labour, under which a debtor enters, or has, or is presumed to have entered into an agreement with the creditor, and/or any system of Forced or partly Forced Labour under which any person renders such service of Forced Labour to the effect that etc. etc. ....

(i.e., the rest of the Section 2(g) remains as it is in the said Act.)

3.4 The existing provisions of the Act in respect of the definition of Bonded Labour System could also be used in more flexible manner by adopting the following administrative criteria :

(a) Bonded Labourer means a labourer who incurs or is presumed to have incurred a bonded debt: If bonded debt is extinguished the Bonded Labourer concerned has also to be automatically identified, released and rehabilitated.

(b). Bonded Labour System means a system where a labourer who is forced to work/render labour on account of the incident of his birth, or any other social system prevailing in the areas of his birth, his caste, creed or relationship in the manner that either no remuneration is paid or less than reasonable remuneration is paid to him against the work rendered by him in this system and in a manner overtly or covertly indicating an element of force in the arrangement of his employer, which, on paper, may appear to be a regular one, but in a sense is nothing but a camouflage to suppress the real nature of the element.

The adoption of above criteria in the existing definition also would help the authorities to take a more practical view of the situation relating to Bonded Labour in an area and would help expediting the identification, release and rehabilitation of Bonded Labour.

3.5 The explanation clause under Section 2 of the Bonded Labour System (Abolition) Act as amended by Act of 1985 could be made more broad-based by incorporating the provisions of the Prohibition of Child Labour (Prohibition and Regulation) Act 1986 under the various clauses of disabilities section of Bonded Labour and Bonded Labour System under the Bonded Labour System (Abolition) Act, 1976, so that the elements of Bonded Labour and Bonded Labour System in the case of Child Labour could also be considered under the various existing provisions of the said Bonded Labour System (Abolition) Act, 1976.

3.6 The Committee is of the view that all cases of less payment of minimum wages or breach of any provisions of the various labour laws cannot be straightway brought under the provisions of the Bonded Labour System. Such cases should be otherwise examined administratively on a thorough manner before the Investigating Officer comes to the conclusion that besides expediting in matters of payment of minimum wages or breach of any provisions of the labour laws, the various elements of Bonded Labour as clearly mentioned in the existing provisions of the Act or in the proposed amended provisions in the Act (as proposed above and if adopted) are fully satisfied and such nexuses are fully established, in order to come to the conclusion that in such extreme cases of less payment of minimum wages or gross violation of the provisions of the various other labour Laws (other than those mentioned in the explanation clauses under Section 2 of the Act), the Bonded Labour System, as defined under the Act, exists; otherwise, the Committee felt that in such matters due administrative and legal measures shall have to be taken concurrently by the Appropriate Authority to apparently minimise such exploitation of workers under the Minimum Wages Act or for the breach of provisions of any other labour law, so that such labourers, in due course, do not pass into the state of bondage.

3.7 The Committee is of the view that both the Central Government and the State Governments should help conducting training programmes, workshops and awareness shibirs at various levels – State, District, Taluka and Village, explaining the various provisions of the Bonded Labour System (Abolition) Act, 1976, so that a proper perception and clarity is attained by all concerned in the definition of Bonded Labour and Bonded Labour System and also about the proper application of the methodology for identification and abolition of the Bonded Labour .

3.8 The Committee observed that in Chapter VI (Offences and Procedures for Trial under Sections 16 and 18 of the Act) the words, "Bonded Labour" wherever they occur, the following words can be substituted – i.e.,

"Bonded Labour or any other system of Forced Labour within the ambit of the definition in Section 2 of the Act".

3.9 Correspondingly the Committee observed that in Sections 6(6) and 6(7) of the Act, for the word "creditor" wherever it occurs, the words "creditor or such person" may be substituted. Similarly, in Section 6(5) of the Act after the word "creditor", the word "any other person" may be added; and after the words "for the recovery of any bonded debt" the words "for enforcement of any obligation under the Bonded Labour System including the recovery of any bonded debt" may be added.

3.10 The Committee also observed that in Sections 6.7 and 9 of the Act for the words "liabilities to repay bonded debt" wherever they occur – the following words may be substituted:- "Every obligation under the Bonded Labour System including the liability to repay bonded debt"

3.11 The Committee also opined that the title of Chapter III of the Act, namely, "Extinguishment of liability to repay bonded debt" may be substituted by the following words: "Extinguishment of every obligation under the Bonded Labour System including the liability to repay bonded debt".

b. Identification:-

3.12 The State Government must categorically ensure that the District Magistrate, as per the power and authorities vested in him under Sections 10,11 and 12 of the Act, must fully and properly carry out the same with full will and determination in himself and through his subordinate official machineries for the purpose of proper implementation of the provisions of the Act. For this, the Committee feels that every District Magistrate should appropriately delegate and confer power and authority to the subordinate officials required for the enforcement of the Act in matters of identification, release and rehabilitation of the Bonded Labour.

3.13 The District Magistrate should ensure that Vigilance Committees are duly formed at District, Sub-Division and Taluka level and proper persons as mentioned in the provisions of the Act and also as reiterated by Government of India through various Circulars from time to time, are duly inducted in such Committees.

3.14 a) There should be strict implementation of the existing provisions of Rule 7 of the Bonded Labour System (Abolition) Rules, 1976 in order to ensure the implementation of the provisions of the Act. Every District Vigilance Committee shall maintain the following Registers in respect of the freed Bonded Labourers within the local limits of their jurisdiction, namely,

(a) A Register containing the names and address of the freed Bonded Labourers;
(b) A Register containing statistics relating to vocation, occupation and income of every freed Bonded Labourer.
(c) A Register containing details of the benefits which the freed Bonded Labourers are receiving including benefits in the form of land, input for agricultural training, handicraft and allied occupations, loans at differential rates of interest for employment in urban and semi-urban areas. Every authorised person of the Vigilance Committee must, during the visit of his areas, must check these Registers and take appropriate further actions.

3.15 The Committee feels that a Task Force be formed compulsorily at each Block level consisting of the Block Development Officer, Revenue officials, representatives of the Bonded Labourers who had already been identified and rehabilitated, representatives of persons with social standing and taking interest in such social programmes and also the members of the local level Vigilance Committee, and Social Justice Committee of the Panchayats. Such Task Force should continuously undertake surveys in their areas to identify the existence of Bonded Labour or Bonded Labour System in any class of people or individuals in that area. The Task Force shall take steps to scrutinise the application and representation received by them. Verifying the factors in respect of each Bonded labourer and to satisfy about their correctness and make suitable recommendations to the Sub-Divisional Vigilance

Committee and District Level Vigilance Committee. The District Level Vigilance Committee must take into account such reports of the Task Force and take appropriate decision in the committee for further action.

3.16 The Committee feels that identification of Bonded Labour through Household Surveys in the sensitive areas may be done by the State Government with the help of Revenue Authorities as well as Panchayat Authorities in association with the Field Agencies of the Directorate of Economics and Statistics, Directorate of Backward Classes and Tribal Welfare, Directorate of National Sample Survey Organisation etc., The Committee also suggests that the process of identification of Bonded Labour through such Household Surveys should be completed within a time-bound programme.

3.17 Similar identification of Bonded Labourers can also be undertaken during the survey/census work for identification of the target group for allotment of house sites or for various economic development programmes. Similar surveys should also be integrated with the micro-level village plan preparation under the IRDP and other Rural Development Programmes. The intensive surveys and studies on Bonded Labour should also be undertaken in the areas of stone-quarries, brick-kilns, diamond-cutting industry, carpet weaving industry, where element of Bonded Labour and element of Child Labour and Bonded Labour System in the Child Labour might be more perceptible.

3.18 Publicity Camps to bring about better awareness about the problems of identification, release and rehabilitation of Bonded Labour among all the concerned should be launched vigorously in the sensitive areas, and where it is already launched, should be intensified.

3.19 All programmes of Bonded Labour should be taken up in an integrated manner involving the Vigilance Committees, Social Justice Committees, Voluntary Agencies and various Social Action Groups dedicated to the cause of Bonded Labour and also pooling resources from different sources for ensuring permanent and effective rehabilitation of freed Bonded Labourers. Action should be taken to suitably integrate various Centrally Sponsored Schemes such as IRDP, NREP, Special Component Programme for SCs, Tribal Sub-Plan, Nehru Rojgar Yojana, Jawahar Rojgar Yojana for pooling the resources available under these schemes for securing an effective identification and rehabilitation programme and eradication of Bonded Labour System in the areas where they are still prominent.

3.20 In the States, there should be State Level High Powered Coordination Committees to oversee and review the performance under its various Development Programmes from the point of view of identification, release and rehabilitation of Bonded Labour. This High Powered Coordination Committee should also review the performance of the Vigilance Committees at various levels, to analyse whether the Vigilance Committees had really worked with full will and determination to identify, release and rehabilitate the Bonded Labourers under the provisions of the Act. This Committee mentioned above would be a Standing Review Committee at the State Level to monitor and review the progress of identification, release and rehabilitation of Bonded Labour. This Committee, inter-alia, should also monitor the involvement of the various Non-official and Voluntary Organisations and institutions dedicated to the cause of eradication of Bonded Labour in association with the District Vigilance Committees and other Committees. If possible the nodal Administrative Department (preferably the Social Welfare Department) in the State, should have the system of continuously monitoring the overall performances and actions through Government Departments, Voluntary Agencies, including Voluntary Associations and Non-Governemental Institutions in matters of identification, release and rehabilitation of Bonded Labour System.

3.21 The Committee recommends that sensitisation of the District, Taluka and Villlage: Administration under the District Magistrate for proper implementation of the provisions of Bonded Labour Act is a must. For this the District Magistrate should be made squarely responsible to fulfill the task through his Government machinery and authorised institutions. Persons who are deeply interested in this social cause of eradication of Bonded Labour should be considered for posting in preference to such sensitive areas and they should be given all due encouragement and support by the State. The Committee felt that Association of the Students from SCs and STs and other Backward Classes who opt for the National Services Schemes and who have the personal and rural background in such sensitive areas, should be associated with the Governmental Agencies under the supervision of District Magistrates and officers in matters of identification and release of Bonded Labour.

3.22 The Committee feels that intensive efforts should be made by the Government Authorities and other Voluntary Agencies (under the superivision of Government Authorities) for identification of the areas of concentration of Bonded Labour. Such identification should be done on the basis of existing reports, literatures and documentation on Bonded Labour made so far. Such areas of concentration should be properly mapped in each State and the efforts of the Vigilance Committees, Voluntary Agencies, Social-Justice Committees and other institutions under the overall authority of the District Magistrates should be concentrated in such areas for the purpose of identification of incidence of Bonded Labour System and Bonded Labour, and their eradication by due process of law. Task Forces of officers drawn from various Departments and other Agencies should be constituted for intensified village surveys for identification of Bonded Labour in those areas of concentration.

3.23 Rural Labour Camps should be systematically held in those sensitive areas where organisations like Rural Labour Welfare Board, Voluntary Organisations operating under the Labour Welfare Department, Social Welfare Department, Tribal Welfare Sub-Plan, Village Panchayats, and similar other institutions operate. They should organise such Rural Labour Camps more frequently in those sensitive areas where Bonded Labour and Bonded Labour System are likely to persist. In each such labour camp, individuals with proper organisational capability and potential and proper training and outlook should be inducted.

3.24 All out efforts should be made to ensure the identification, release and rehabilitation programme for Bonded Labour as a time-bound and simultaneous task. This will help in speeding up the process of identification.

The identification of Bonded Labour should be a continuous process. Till such time as the entire Bonded Labour System is totally eradicated in the respective areas, the role of the Task Force for survey and identification as mentioned above, should also be a continuing one in the respective areas under the overall supervision of the District Magistrate. Non-Political Social Action Groups and Voluntary Agencies consisting of honest and competent persons devoted to the cause of SCs, STs, agricultural labour and other unorganised workmen should be involved in the task of identification and release of Bonded Labour.

3.25 It is also desirable to conduct a countrywide census of Bonded Labourers once in five years and specially in the districts with concentration of Bonded Labourers; some sample surveys could also be done periodically, say once in two years. Such surveys could give details regarding the incidence of Bonded labour, Bonded Labour System, infrastructure and organisation available for identification, release and rehabilitation of Bonded Labour and to assist in monitoring the overall situation from time to time. For the purpose of identification of such Bonded Labour and Bonded Labour System through such censuses and surveys, Central Organisations like Central Statistical Organisation, National Sample Survey Organisaion, Census Department, could also be entrusted with the job.

3.26 Regular training programmes and workshops should be organised both at the Central and State levels for undertaking training of the functionaries involved in the survey, enumeration, identification and rehabilitation of Bonded Labour. Regular seminars and workshops should also be arranged to create proper awareness on the legal as well as administrative provisions for identification of Bonded Labour. In addition to the newspapers, radio and other media like electronic media may also be used exclusively for the proper and wide publicity of the abolition of Bonded Labour System and other related matters.

3.27 Proper incentives may be given to the informants of the existence of Bonded Labour in a particular area, if Bonded Labour is identified after receipt of such information. Voluntary Agencies, Social Action Groups and Social Workers working for the welfare and development of SCs, STs, and other weaker sections of the society may be encouraged in the process of identification of Bonded Labourer. Due weightage may be given to the complaints received from these agencies and prompt action also may be taken for finding out the truth of the complaints.

3.28 The question of review and existence of Bonded Labour may also be kept on the agenda of the monthly / periodical meetings of the Executive Magistrates and the Police Officers in the districts which may be reviewed by the District Magistrate himself in such meetings regularly. The District / Taluka Panchayat administration also in their monthly meetings of the Panchayats, Secretary / Village Patwari and other Panchayat Officials should discuss as a permanent item in the agenda the question of the existence of Bonded Labour in their jurisdiction and related matters. District Magistrates should ensure a regular meeting of the District and Sub-Divisional level Vigilance Committees, to keep continuity in the operation of identification, release and rehabilitation and all related matters of Bonded Labour. The Committee suggests that there should be specific TARGETS for the task of identification of Bonded Labour at all the earmarked levels of Administration – the District, the Sub Division, the Taluka and the Village and these should be constantly monitored.

3.29 It is also proposed that any action on identification of Bonded Labourers should be concurrently followed with the actions against the Bonded Labour keepers under the provisions of the Bonded Labour System (Abolition) Act, 1976. Such concurrent actions of identification and punishment would act as deterrent efforts in future and thereby would minimise the further incidence of Bonded Labour in the area. Secondly, such concurrent actions of identification followed up with at least lodging of FIR against the offenders would also act as a check against any fraudulent identification of Bonded Labourers.

3.30 The District Vigilance Committee should take necessary steps in consultation with the judiciary to see that the concerned magistrate empowered under Section 21 of the Act to try offences committed under the Act, disposes of such cases expeditiously. Similarly, it should be administratively ensured that all reports of identification of Bonded Labourers from the State Government must be accompanied by corresponding reports of prosecution of Bonded Labour keepers under the Act. The District and Sub-Divisional Vigilance Committees should also periodically review the number of offences for which cognizance has been taken under this Act and also necessary action for prosecution taken by the concerned authorities under the Act.

3.31 The Committee is also of the view that all cases of identification of Bonded Labour in an area should be concurrently taken up for rehabilitation of those Bonded Labourers so that the whole operation ultimately appears to be meaningful and effective. Secondly, the Committee is of the view that for such concurrent actions of identification and rehabilitation of Bonded Labourers, the involvement of Voluntary Agencies at various levels could also be streamlined and for this purpose the detailed guidelines given by the Government of India, Ministry of Labour in its Memoranda No. Y-11011-1-87-BL dated 29-10-87 as well as dated 8-1-1988 should be scrupulously followed by all the concerned. Such action, the Committee feels, would make the process of identification also more meaningful and effective. The listed Voluntary Organisations engaged for such task of identification and rehabilitation, must work in close liaison with the District and Sub-Divisional Level Vigilance Committees as well as the Social Justice Committees of the local Panchayats. Since the Vigilance Committees have a vital role to play in the matter of identification of Bonded Labour and rehabilitation of the freed Bonded labourers, a country-wide drive should be made to see that every District and every Sub-Division in each State is covered, with the duly constituted Vigilance Committees for the purpose of this Act as well as with the constitution of the Social Justice Committees at all the tiers of the Panchayats in the Districts and this task should be completed as a time-bound programme.

3.32 The Committee further reiterates that the Government of India's Guidelines and existing instructions for undertaking fresh surveys for identification of Bonded Labour should be strictly followed by all the concerned. For this purpose the administration in charge of the implementation of the Act should periodically arrange for surveys of the families and to identify such families coming under the category of Bonded Labour and ensure all other subsequent steps for release of all those identified as Bonded Labourers. The Committee also reiterates that during the work of such identification, priority attention must first go to the localities of the poorer sections of people in the villages, irrespective of their belonging to either SC, ST or other backward classes and that all care should be taken to elicit the correct information from them in an intelligent and imaginative manner by which alone will it be possible to establish the nexus between the ingredients of debt, bondage, element of force etc., wherever the same is in existence, without hurting the feelings and sentiments of such persons and would help in identifying the real Bonded Labourers in the areas.

3.33 The Committee also reiterates and recommends that maintenance of the statutory Registers in respect of Bonded Labour under Rule 7 of the Bonded Labour System (Abolition) Rules, 1976 along with those for the Migrant Labour and Contract Labour as well as for the Child Labour under the relevant statutory Acts and Rules and the same should be enforced strictly at the district and sub-divisional levels under the supervision of District level as well as Sub-Divisional Level Vigilance Committees. This will help considerably in the process of identification of Bonded Labour under various circumstances and contingencies mentioned under the provisions of the Act.

3.34 The Committee suggests that on the lines of the Tribal Area Sub Plan Development Programmes, Government could also consider to establish Bonded Labour Rehabilitation Area Sub Plan in the selected and identified areas of the districts concerned, for which separate Development Fund allocation could be made. This will ensure speedier and effective rehabilitation of Bonded Labour and would thereby hasten the process of further identification and eradication of Bonded Labour in those areas.

3.35 The Committee recommends that the identification, eradication and rehabilitation of the Bonded Labour should be declared as a PRIOPRITY PROGRAMME in the country and both the Government of India and the State Governments should work out their plan of action accordingly for this purpose. There should be a separate fund allocation for this programme, and the entire programme should be funded as a "CENTRAL SPONSORED SCHEME".

3.36 The Committee recommends that there should be well defined structural / institutional arrangements for identification, eradication, etc. of BONDED LABOUR right from the CENTRE, the STATE to the DISTRICT, on the lines of IRDP etc. programmes of the Government of India, where each functionary and his roles and responsibilities should be specifically defined and monitored.

3.37 The Committee recommends that there should be stricter implementation of the provisions of the Minimum Ages Act and Regulations, the Inter-State Migrant Labour Act and Regulations, Prohibition of Child Labour Act and Regulations as well as the Contract Labour Act and Regulations in every State and this should be closely monitored, especially from the view point of the contingency of such workers passing on to the stage of BONDAGE from such working conditions.

1. Sri A.K. Chakravorty - Chairman-cum-Convenor
   Additional Chief Secretary to Govt. of Gujarat,
   Labour and Employment Department.

2. Sri D.P. Maheswari - Member
   Labour Secretary, Govt.of Bihar - or his successor.

3. Sri Iqbal Ahmed-Member,
   Revenue Secretary / Labour Secretary, Govt. of Madhya Pradesh or his successor.

4. Sri V. Govindrajan-Member,
   Labour Secretary, Govt. of Andhra Pradesh or his successor.

5. Sri S.D. Bagla-Member,
   Labour Secretary, Govt. of Uttar Pradesh or his successor.

CORRIGENDUM

To
The Secretary to Government of India,
Ministry of Labour,
Shram Shakti Bhavan, New Delhi

Sub:- Report of the Central Committee to draw up a workable Definition of Bonded Labourers and also the modalities or procedures for Identification of Bonded Labourers- Submission of the Report of the Committee on 11-8-94.

Sir,

With reference to the subject above, I am sending herewith a Corrigendum Slip to be kept in the said Report of the Committee submitted to Government of India by the undersigned on 11-8-94. I also request you to kindly arrange to send this corrigeneum slip to all the other concerned to whom the copy of the report has been sent from the ministry of Labour, Government of India.

Thanking You,

Yours faithfully,

(A.K. CHAKRAVORTY)
Additional Chief Secretary to Govt.of Gujarat
Labour and Employment Department.

CORRIGENDUM TO THE REPORT OF THE CENTRAL COMMITTEE TO DRAW UP A WORKABLE. DEFINITION OF BONDED LABOURERS AND THE MODALITIES OR SSPROCEDURES FOR IDENTIFICATION FO THE BONDED LABOURERS.

(1) In CHAPTER THREE – Para 3.3 (a) for the word "Bonded Labours", read the word. "Bonded Labourer".

(2) In CHAPTER THREE in Para 3.4 (a) for the word "Bonded Labour" read the word "Bonded Labourer".

(3) In CHAPTER THREE – Para 3.4 (b) after the word "Bonded Labour System means" and before the word. "a labourer", add the following word:-

"a system where"

(These are incorporated wihin the text)

ANNEXE

Questionnaire for comments on the definition and identification of the Bonded Labour and its related issues.

1. Whether the provisions of the existing definition of the 'Bonded Labour' are sufficient to cover all types of the bonded labour ?

2. If not, what difficulties are experienced in the field to implement these provisions of definition ?

3. What amendment do you suggest to amend the existing definition of "bonded labour" and why?

4. Whether the provisions of the existing definition of the "Bonded Labourers" are sufficient to cover all types of Bonded labourer?

5. If not, what difficulties are experienced in the field to implement these provisions of definition ?

6. What amendments do you suggest to amend the existing definition of "Bonded Labourer" are sufficient to cover all types of the Bonded Labourer?

7. Whether the provisions of the existing definition of "Bonded Labour System" are sufficient to cover all types of Bonded Labour System?

8. If not, what difficulties are experienced in the field to implement these provisions of the definition?
9. What amendments do you suggest to amend the existing definition of "Bonded Labour System" and why ?

10. What are your views on the changes suggested in the definition of "Bonded Labour" by the National Commission on Rural Labour ?.

11. Whether do you find that the existing legal provisions of the 'identification' of bonded labour are sufficient?

12. If not, what difficulties are experienced in this matter?

13. What change do you suggest to amend the existing legal provisions of the identification?

14. Whether the administrative instructions issued by the Government of India for the identification of bonded labour are sufficient?,

15. If not, what difficulties are experienced in this matter?

16. What changes do you propose in the matter of identification of bonded labour?

17. What administrative instructions are issued by State Government to identify bonded laboure. Please send 6 copies of the set of Circulars and other instructions?

18. Do you consider that such instructions issued by your State Government are sufficient, and do you propose to issue any additional or revised instructions in this matter?
19. Any other comments on the relevant issues?

4

UNORGANISED SECTOR

CHAPTER – 7, Volume II

Report of the National Commission on Labour Ministry of Labour, Government of India, 2002

[The numbers below are not continuous. While summarising from the full length Reports in Volume I, some sections have been omitted in Volume II in the original. Emphasis is added in this edition.]

7.1 One of the two main tasks entrusted to the Commission is to propose an Umbrella Legislation for workers in Unorganised Sector to ensure at least a minimum protection and welfare to the workers in this sector. This task is more difficult and complicated because of the dimensions and the variety of the workforce in the sector.

7.2 Unlike the organised sector, in this sector we are dealing with the workers who have not acquired a high profile, tasted the benefits that can be gained from organisations, or derived the advantages flowing from high visibility.

7.3 Though other Commissions before us have also looked at unorganised sector it is for the first time that the Government has specifically asked a Commission to propose an Umbrella Legislation to ensure protection and welfare of the workers in this sector.

7.4 We preface our observation by saying that on account of the variety, complexity and the dimensions of the sector and the paucity of information about the conditions of work of workers in this sector, our work may bear the marks of shortcomings that arise from incomplete access to data.

7.5 The first difficulty that we came across was in identifying or defining unorganised sector. It could not be defined solely on the basis of the nature of work of the workers or on the basis of the number of employees in the undertaking and also not on the basis of the level of organisation.

7.6 It is equally difficult to identify an employer in some of the areas of unorganised sector, and hence, an employer-employee relationship.

7.15 The unorganised sector is too vast to remain within the confines of conceptual definition. Hence, descriptive means are used to identify unorganised sector.

7.17 In official records unorganised sector is defined as residual of organised sector. Problems of underestimation and insufficient coverage lead to problems in deriving the residual estimate of the unorganised sector. The definition based on this approach which considers the organised sector as that employing 10 or more workers and the unorganised sector on the residual, is not dependable.

7.18 Many efforts have been made to identify the characteristics of employments in this sector. It will be useful to list some of the characteristics namely, low level of organisation, casual labour relations, small own account or family-owned enterprises or micro enterprises, ownership of fixed and other assets by self, involvement of family members, easy entry and exit, free mobility, use of indigenous resources and technology, absence of fixed working hours, unregulated and unprotected nature of work, lack of employment security and social security, use of labour intensive technology, lack of support from Government, etc.

7.22 Unorganised sector is in no way independent or exclusive sector but is dependent on the organised sector and the rest of the economy through variety of linkages such as raw material, capital, generation of employment, market facilities and so on.

7.23 Despite existence of labour laws, the workers in this sector do not get social security and other benefits for various reasons and there is hardly any trade union or institutional mechanism to fight for them.

7.24 In the organised sector too permanent workers are getting casualised and contractualised as a consequence of new economic and industrial policies. Such workers (casual or contract) in the organised sector as well as unionised workers in the unorganised sector can be considered to be included in the unorganised sector.

7.25 All workers who are not covered under the social security laws can be considered as part of the unorganised sector.

7.26 The term, **unorganised sector,** eludes definition. Its main features can be identified and the sectors and processes where unorganised labour is used can be listed though not exhaustively. Apprentices, casual and contract workers, home-based artisans, a section of self-employed persons involved in jobs such as vending, rag picking and rickshaw pulling, agricultural workers, migrant labour and those who perform manual and helper jobs come under this sector, as well as those who depend on natural resources that are open or common property.

7.28 The official definition of the **informal sector enterprises** consists of **directory establishments** that employ between 6 and 9 persons and **non-directory establishments** which employ 5 persons or less and own account enterprises.

7.30 The study group appointed by the Commission has brought out **certain general characteristics of enterprises or employments in this sector** such as low wages and low earnings, high percentage of employment of women, employment of family labour, child labour and migrant labour, piece-rate payments, home-based work or contractual work, seasonal or intermittent employment, lack of organisation into trade unions, casual and multiple jobs, **existence of debt bondage**, existence of cooperatives of self-employed workers, dependence on others for supply of raw materials, less access to capital, existence of health hazards, etc.

7.32 We may look at some of the **specific groups of employment and problems confronted by them.**

7.33 **Home-based workers** fall within a grey area between employed workers and self-employed workers. There are self-employed workers as well as employed workers amongst the home-based workers.

7.37 Article 4 of the ILO Convention No. 177 of 1996 on home-based work calls for promotion of equality of treatment for the home workers including right to organise, to protection against discrimination, to occupational safety and health, remuneration, social security, access to training, etc. The Commission feels that ratification of this Convention will offer substantial safeguards to millions of workers.

7.38 In the National Consultation held on the 17th January, 2000 the paper presented by the Ministry of Labour defined home-based workers as those who are otherwise unemployed, intending to but not absorbed by the organised sector, with skills limited to certain jobs which have economic value. The home-based worker is thus a self-employed person conducting his activity for a person or an organisation as there is no direct employer-employee relationship between a home-based worker and the person or organisation for whom he works.

7.39 Among the home workers there are some for whom this is the main economic activity while for others it is a supplementary source of income.

7.40 In many cases, the head of the family or the member of the family does the work himself with the help of other members of the family. It is a collective self-employment effort and there is neither an employee nor an employer.

7.41 The paper presented by Ministry of Labour further mentions that the absence of specific data on home-based workers in official statistics is a reflection of lack of recognition of their legitimacy as workers and also of a refusal to acknowledge their economic contribution. Their contribution to national income in quantifiable terms is yet hazy but substantial, Studies point out that female workers constitute the majority of home-based workers.

7.44 The National Consultation was of the view that terms like home worker, self-employed person and own account worker should be defined and policies formulated to cover them.

7.45 Recommendations from the National Consultation suggested that the home-based workers should be limited to wage earners working for outside employers, they should be included under the Minimum Wages Act and the welfare schemes and provisions existing under some of the labour laws should be extended to them and the existing provisions pertaining to the organised sector should not be transplanted to home-based workers.

7.47 There is no reliable estimate of number of persons engaged as **domestic workers**. Though somewhat visible in urban areas, they are also engaged in households all over the country even in most distant and intractable areas. An estimate made by College of Social Work in Mumbai claims that 80% of domestic workers are women.

7.48 The work does not require any special skill. The persons employed as domestic workers are extremely poor, illiterate and come mostly from rural areas.

7.49 There is no system of social security on which the domestic workers can fall back. They work for long hours and do a variety of work and sometimes get a few hours of undisturbed sleep. In many cases, they are not provided with safe and clean places where they can rest or sleep. Since many domestic servants are women and children, they run the risk of sexual harassment and exploitation in many houses.

7.52 There is need to ensure satisfactory conditions of work, humane treatment and acceptable level of social security, issue of identity cards and payment of minimum wages to domestic workers.

7.55 In the interest of public health, sex workers should be subject to periodic health checks, should be registered and should be treated as self-employed for the purpose of protection or welfare.

7.58 They should be entitled to the benefit of all the schemes that we are recommending for self-employed workers. Children of sex workers should not be denied opportunities for education.

7.59 At present no **worker in plantations** is covered under the Plantation Labour Act which stipulates the wage limit of Rs. 750 p.m. We were told that large number of casual and contract workers are employed in plantations even on jobs which are regular and not seasonal. All plantation workers should be provided with gumboots to protect them from insect and snake bites. The workers employed on handling fertilisers and spraying of pesticides should be trained and provided with safety equipments.

7.62 Plantation workers should be paid wages as per settlements or notified under the Minimum Wages Act and the middlemen should not be allowed to siphon away the part of wages of these workers.

7.63 The existing facilities for plantation workers should be continued and made more satisfactory in plantations located at inaccessible places. The facilities may be provided by a group of plantations on cost sharing basis. It will involve efforts on the part of the State Governments to persuade employers to set up joint hospitals, schools, crèches, etc.

7.64 We are of the opinion that the plantation industry should be helped to be competitive by reducing the tax burden and the cost of production.

7.71 The working conditions of the **workers working in underground mines** are full of hazards and the workers are at the risk of loosing limbs or lives due to flooding, fire, collapse of roof, emission of gases, failure of ventilation and collapse of sides. There is high incidence of lung diseases like TB and pneumoconiosis in mines. The workers above ground are also exposed to risk of being injured by fall of sides, flying or falling objects, moving of vehicles, material handling equipments and injuries due to blasting. The rate of accident in India in mining activities is very high as compared to other countries.

7.72 The unorganised **small mines and quarries** which fall in the 3rd category of mines, do not have the benefit of any welfare measures. The employers try to avoid implementing social security and other labour laws by circumventing the laws in various ways. **There is high incidence of child labour and bonded labour in small mines and quarries.**

7.78 Allocation of labour on the basis of caste is one of the fundamental tenets of caste system. As per Government estimates one million dalits are **scavengers** who clean public toilets and dispose off the dead animals.

7.83 The National Commission for Safai Karmacharies in its report in 1997 claimed that many scavengers are totally cut off from the mainstream of progress and are subjected to the worst kind of oppression and indignities.

7.100 Given the insignificant amount of remuneration and the need to engage several family members in the work assigned to one, it comes as a little surprise that **many families of scavengers borrow money from their upper caste neighbors and consequently go into bondage**.

7.101 Though the Employment of Manual Scavengers and Construction of Dry Latrine (Prohibition) Act, 1993 punishes the employment of scavengers or construction of dry latrines with imprisonment of one year and fine of Rs. 2000, the practice is continuing. The Government launched a national scheme that called for identification, training and rehabilitation of safai karamcharies throughout the country.

7.102 According to National Commission for Safai Karamchari the scheme has benefited only a handful of safai karamcharies and their dependents due to inadequate attention paid to it by the State Governments and concerned agencies.

7.103 **Ship-breaking industry in Alang-Sosia** ship-breaking yard is the biggest yard of its kind in Asia.

7.104 The industry dismantles 300 odd ships per year and employs about 17000 (1999-2000) workers which has now come down to about 7000 workers purportedly due to competition from other Asian countries. We find it difficult to believe that this is the only cause.

7.106 Between the periods 1993-94 till 1999-2000 the average number of deaths in the industry has been 28 and the number of ships broken has ranged from 183 in 1995-96 to 348 (1999-2000). About one fourth of the total deaths have been on account of fire, 10% deaths have occurred on account of gassing and strike against objects each and about 18-19% of deaths have taken place due to fall from heights and from falling objects each. It is obvious that the safety standard is not what it should be. There has been no satisfactory effort to enforce what is necessary in such an inherently risk-prone activity.

7.108 In the ship breaking yards, the workforce is largely migrant from UP, Bihar and Orrisa and to some extent from Maharashtra and other states.

7.109 The ship breaking industry needs support from the Government for making provision of water hydrant system for fire fighting, piped potable water, LPG/oxygen pipeline, land fill site and waste management, setting up a safety institute, improved road connections, stable water supply, etc. There is need to raise productivity of the industry to meet competition from countries like China, Pakistan and Bangladesh. The Commission is of the view that the regulations that relate to safety and health of the worker were meant not only for safety and welfare of the workers but also to ensure health of the industry itself.

7.110 Most of the **workers in construction industry** are employed on casual basis. Unstable employment / earnings and shifting of workplaces are the basic characteristic of work for construction workers. Though child labour is prohibited, children are engaged in unskilled jobs.

7.111 Women engaged in construction work, are the most exploited. Frequent changes in their work and instability deprive them and their children of primary facilities like health, water, sanitary facilities and education. In most cases safety norms are violated. They are often not given maternity benefits, though obligatory.

7.112 Temporary residential sheds put up for construction workers lack minimum facilities. Crèche facilities are not available at work sites and social security benefits are virtually non-existent because of various constraints such as lack of stable nexus between employer and employee, instability of employment, poor and uncertain earnings of workers, unreliable duration of work, etc.

7.113 There is violation of laws on minimum wages, equal wages, child labour, contract labour and interstate migrant workers. Construction workers remain invisible, vulnerable, voiceless and ununionised.

7.114 **A system of bondage exists and gets extended from one generation to the next through child labour in construction industry.**

7.116 In the post-liberation period the construction industry in the country is witnessing many structural changes which will radically transform the industry as well as construction labour market. The industry, which hitherto has been based on labour intensive technology providing ready source of employment will become technology intensive and mechanised leading to elimination of large numbers of the workforce.

7.127 Rag picking and scrap collection have a bearing on the urban economy. Many production enterprises depend upon recycling of the wastes.

7.128 As per available estimates there are about 50 lakh scrap collectors in the country. Illiterates, unskilled persons, illegal aliens and the poorest of the poor are pushed into this occupation as they are not able to find any other kind of employment. There is generally no employer-employee relationship in this trade and the waste collectors are, therefore, categorised as self-employed. No social security benefits are available to them.

7.131 Between scrap collectors and reprocessors various levels of traders such as retailers, stockists and wholesalers exist.

7.132 A study that about 92% of scrap collectors are women in the age group of 19-50 with the mean age of entry between 9-10 years.

7.135 The Commission recognises the useful role played by scrap collectors both in helping recycling activities as well as in maintaining civic hygiene. It is therefore, essential that they should be protected from insecurity of various forms by measures like providing identity cards, receipts for transactions, minimum wages if employed, health facilities, creation of welfare funds, prohibition of child labour. The municipal bodies should also give thought to the questions we have raised (in our report) and make appropriate regulations and arrangements.

7.142 The commission feels that there should not be any prejudice against the direct engagement of **migrant workers by fish processing units of other states** on terms and conditions that the state authorities may like to lay down to ensure compliance by the employer.

7.143 The commission finds that there is urgent need to ensure that **fish processing units** acknowledge their legal obligations on wages, overtime, maximum hours, and amenities. The contracts of work with the contract workers may be reduced to writing and signed with free and informed consent of all parties and the workers may be provided with a copy of the same. The employers should maintain proper records of wages, overtime etc. and the workers should be provided with protective equipment necessary for safety such as apron, gloves and gumboots, clean and hygienic quarters/dormitories and facilities of drinking water, toilets etc. It should be ensured that the movement of workers is not restricted after working hours and they are not coerced to restrict their movement to the precincts of factory complex. Workers should be able to form their own associations and associate with people outside without fear or intimidation.

7.144 The provisions of the Inter-State Migrant Workers Act, Contract Workers Act, and the Minimum Wages Act should be strictly implemented in fish processing units and welfare boards should be set up to look after the needs of social security and health security of workers in the fishing sector.

7.145 India has tremendous potential for development of fish processing. The Commission feels that while creating conditions for growth and health of the industry, the interest of the workers engaged in it should also receive equal attention.

7.151 According to rough estimates by the Fisheries University in Mumbai, **fishing and allied occupations** can generate a large number of jobs which may well be second only to employment in the agricultural sector.

7.152 Employment can be generated in **marine sector, fresh water sector, captive fisheries sector, inland captive fisheries sector, coastal aqua culture sector** and **post harvest sector**. The employment in fishing sector includes net making, processing industry, marketing of fish products, boat building, fishing in sea water, related workshops etc.

7.169 The total working population in fisheries (marine and inland) is estimated to be around 6 million, the largest proportion (66%) being in the harvesting activity which is composed of mainly men, though women are sometimes involved in inland fishing. Women dominate the handling and processing activity accounting for about 70% of the workforce.

7.171 Harvesting of fish is conditioned by the weather and availability of fish in the aquatic terrain. A fisherman gets about 150-200 days of work in the year.

7.172 Seasonality of employment in other sectors is also related to weather at sea. The range of days of employment in handling, processing and marketing sectors is from 100-250 in the year.

7.175 Wages are paid by piece-rate, daily rate or as a share of net income. The last form is most common in harvesting activity.

7.176 The earnings of workers in fisheries sector as a whole are rather low and marked by very wide day-to-day fluctuations.

7.187 The fisheries sector of Kerala is noted for migration of workers within the state as well as migration of skilled workforce to the fisheries sector of other maritime states of India.

7.193 Risk of accidents is especially high amongst the workers in harvesting activities particularly on mechanised boats and the artisanal, fisherman using non-mechanised crafts in the coastal waters.

7.194 Social security and welfare measures in fishing industry are of two distinct types i.e. those that have been evolved from traditional community caring and sharing systems and those that are instituted as part of the organised obligations towards workers on the part of the employers and the state.

7.197 The Government of Kerala has measures to cover accident, risk to life and equipment, educational scholarship to children of fish workers, grants and subsidies for housing, relief measures during the monsoon season and so on.

7.198 The social security and welfare measures provided by employers like owners of mechanised boats, peeling sheds, processing firms, etc., leave much to be desired.

7.199 Maharashtra is one of the States where traditional fishing community has benefited greatly by establishment and effective functioning of cooperatives that play a role in the three sectors of activity i.e. catching, chilling, processing and marketing. In most of the other areas, the record of performance of cooperative movement and quasi-Government organisations has been inadequate.

7.200 In Kerala the small, vocal and militant unions are not found among wage workers but among largely self-employed fish workers involved in fishing and marketing.

7.201 The **glass bangle industry in Ferozabad in UP** is a technically backward industry employing obsolete technology. The working conditions in most of the units in the industry are inhuman.

7.204 A large number of children are working in this industry, the estimates of which vary from 5000 to over 1 lakh. The industry exploits the exemption of family labour from the provisions of the Child Labour Act and increasingly resorts to sub-contracting forms of production.

7.205 The bangle industry as it is operating poses serious health hazards to workers. Temperatures inside the factories are very high and very often cause burn injuries. The environment in factories is highly polluted with emission of chemical fumes and coal dust leading to respiratory disorders and TB.

7.206 No security and safety measures are available in this industry to the workers, specially in household and unregistered factories. In each household, the traditional furnaces may be seen with large number of children working on them.

7.207 58% of the children work in family run units. Only compulsory enrolment of children in schools can prevent exploitation of children in sweatshops.

7.208 A research study conducted by the Center for Operations Research & Training in 1998 has recommended that to improve existing unhealthy working conditions in the industry, it is necessary to improve its production technology and work environment besides training and equipping the workers with higher skills.

7.209 **The brassware industry** in Moradabad employs about 1,50,000 workers directly and many more indirectly. About 45% of workers are children in the age group of 8-12 years and 50% of the workers engaged in moulding and finishing workshops are children below the age of 14 years. There is increasing practice of sub-contracting of jobs which gives scope for free use of cheap child labour.

7.210 Many units are unregistered and the workers have no rights for entitlements like ESI, PF, etc.

7.211 According to one estimate, women constitute about 50% of the total workforce in the brassware industry. Apart from respiratory disorders and TB, the children also suffer from eye burns.

7.212 75% of the **carpet looms** in the country are located in the Mirzapur-Bhadohi area of UP which hold a very important position in manufacturing and exporting of hand-knotted woolen carpets.

7.213 Hand-knotted woolen carpet industry has a share of more than 15% in the handcraft exports.

7.214 The carpet industry is full of potential for generating employment as well as foreign exchange for the country.

7.216 In order to avert the demands from organised labour, sub-contracting system was introduced even for the in-house activities, clipping, washing, binding and packaging, etc.

7.217 The carpet industry is full of all kinds of middlemen who make fortunes from the cuts from wage components. These powerful intermediaries control loom-holders/weavers and use different methods to recover advances and material if not supplied in time. There are reported instances of unlawful behaviour met out to poor loom-holders and weavers.

7.219 Carpet weaving is not a full-time employment for everyone who is involved in weaving. There are categories of weavers right from full-time weavers to part-time weavers and casual weavers. Landless weavers having no other means of income are involved as full-time weavers. Being indebted to the middlemen because of advances taken, they do not have freedom to cross to other middlemen.

7.220 Dyes and chemicals used in the carpet industry for colour fastening are of high health hazards. The environmental pollution caused by the industry is becoming higher increasingly in and around carpet industry

7.221 Although estimates of child labour vary, still it remains a fact that the industry is most child labour endemic.

7.223 **Street vendors and hawkers** are among the most visible category of workers in the informal sector. Most of them come from impoverished rural families. Street vending absorbs millions of those who came to cities as economic refugees from villages and enter the occupation with small amounts of capital. They not only create employment for themselves but also generate upstream employment in agriculture and small-scale industry. They are a vital link between consumers and producers, thus making a valuable contribution to the economy.

7.225 Hawkers and vendors of various cities have fought long drawn battles, both in the streets as well as in the courts, to assert their right to an honest and dignified livelihood. The apex court has in some cases directed the city administrators to facilitate hawkers in acquiring legal status and providing spaces for their hawking.

7.226 With the exception of Kolkata, most municipalities provide licences for hawking. Kolkata municipality not only considers street vending as illegal but also provides stringent punishment for hawking which is a cognisable and non-bailable offence.

7.229 Street vending is looked upon as a nuisance or frowned upon by law and gives a lever to municipal authorities and police to extort money from vendors. Municipalities should seriously think of alternative solutions. Legalising vending and providing licences may solve many problems. Bribery and corruption will decrease and it will provide municipalities with extra earnings through licence fee. The street vending will also get more orderly, disciplined and regulated.

7.232 Vendors who resist paying bribe are often beaten up and have their goods confiscated. Sometimes even those who have licences are not spared. In a public hearing held by 'Manushi', it was contended that 5 lakh vendors of Delhi are paying bribes to the tune of Rs. 40 crores in a month.

7.233 A study conducted in Ahemadabad indicated that while the legal fees paid by street vendors in 1998 was Rs. 5.6 crores, illegal fees paid was Rs. 5.5 crores.

7.235 Vendors have to deal with many authorities, municipal authorities, police, district administration, regional development authority, etc. Policy makers seem oblivious of the positive impact of street vendors on the social life of a city.

7.236 It is necessary to evolve national and state policies on street vendors and these could be borne in view while determining urban plans and schemes.

7.239 The Bellagio International Declaration of Street Vendors adopted in November, 1995 while highlighting the importance of street vendors, the harassment caused to them by authorities and the absence of public policies in this regard, urged upon Governments to form a National Policy on Hawkers and Vendors giving them legal status by issuing licences, enacting laws and providing appropriate hawking zones in urban plans etc. and sought for setting up of participative multipartite mechanism and fora with representation of street vendors to look into their problems.

7.240 **Rickshaw pullers, particularly in the North**, are mostly migrants from the states of Bihar, UP, Orissa, MP and Rajasthan. Most of them are small peasants and landless workers who were forced to migrate to the cities due to feudal oppression or exploitation by land mafia, or natural calamities like recurring floods.

7.242 Rickshaw pulling is one of the most preferred avenues of employment in the cities for the unskilled and illiterate but able-bodied persons providing instant source of employment.

7.243 Besides unregulated conditions the rickshaw pullers' vulnerability is further accentuated by the fact that a majority of those who pull rickshaw do not own the rickshaws themselves.

7.244 Though in principle, in most cities only the rickshaw owner can be the rickshaw puller, in practice this happens only as an exception.

7.245 The nature of work of rickshaw pullers has a number of hardships built into it such as badly maintained roads, pulling rickshaw in chilling winter, blistering heat and rains when the roads are waterlogged.

7.246 The rickshaw pullers have no scheme of social security to take care of them during sickness. Most municipalities and Governmental authorities treat rickshaw pullers as a hindrance rather than an agency which is performing irreplaceable and useful work for the citizens and make it difficult for the individual rickshaw pullers to obtain licences.

7.252 Apart from providing direct employment, rickshaw pulling provides indirect employment to several others such as manufacturers and to those engaged in rickshaw repair activities.

7.253 Recently the Prime Minister intervened to help rickshaw pullers and wrote to the Lt. Governor of Delhi stressing the need to recognise street hawking and cycle rickshaw pulling as legitimate occupations, which help reduce poverty and facilitate their integration into formal economy.

7.254 A good number of workers **depend on natural resources for their livelihood such as forest wasteland, water bodies and mineral/ stone deposits.** The ownership of some of these resources has been taken over by the State through legislation or by Village Panchayats. The new players who are given lease to exploit these resources do not depend upon these resources for their livelihood and therefore, do not mind exploiting these resources to their exhaustion at the cost of social assets.

7.255 Society and State will have to give a thought to the remedial strategies advocated by the affected people including involvement of communities in sustenance of these resources like village commons, grazing lands the sources of wood, fuel and other food items which are on the decline, **pushing people who are dependent on these into further degrees of impoverishment and poverty.**

7.259 The Adivasis and other pastoral groups who depend on forests are increasingly losing their livelihood or getting displayed because of lopsided polices and depleting forest cover.

7.262 Traditional artisans such as **basket weavers and rope makers** depend on resources taken from forest and village commons. Forest and village commons are also source of food, fodder and fuels for the poor villagers.

7. 263 All workers depending on common property resources whether employed or self-employed have low earnings mainly due to depletion of resources and lack of work. Debt bondage is prevalent amongst them.

7.266 **Piece-rate system of payment** is rampant in the unorganised sector. Many among the home based workers, contract workers, earth diggers, brick workers, etc. fall in this category. Though the Minimum Wages Act has provisions for time-rates and piece-rates, the mechanism for fixing piece-rates is not clearly spelt out.

7.267 **Casual and contract workers in the organised sector** are more or less equal to unorganised workers as far as benefits are concerned, though they are eligible for most of the benefits under the law.

7.268 **Agricultural workers** get employment for less than 6 months in a year and they have to often migrate to other avenues of employment like construction and similar other occupations during the off-season. Circumstances force most agricultural workers to borrow money from time to tome from private sources.

7.269 Though agriculture is the single largest contributor to the GDP and also the biggest sector for employment, the agricultural workers are badly exploited and oppressed class of the rural society. Powerful Zamindars often treat them as slaves and pay wages in kind. They have been unable to organise themselves despite being a distinct class because of absolute dependence on land owners. Most of the labourers are from lower castes and tribes.

7.270 The National Commission on Rural Labour (NCRL) had observed that **there was acute indebtness amongst the rural and agricultural workers** and mentioned that **16.08 million rural households including those of agricultural labourers were indebted.**

7.271 The NCRL further observed that approximately 40% of agricultural workers are migrants ranging from inter-district to inter-state migration. Workers from Bihar migrate to Punjab and UP and workers from Chattisgarh migrate to Punjab, Maharashtra and Gujarat. The Problems of all migrant workers are very severe. Working as they do 12 hours a day and getting no weekly rest, they are hardly provided any housing facility and their payments are delayed and defaulted. The Inter-State Migrant Workmen's Act has proved ineffective because of reluctance of the State Labour Departments to cooperate with Labour Departments of originating States, ineffective enforcement and ignorance of the workers. Trade unions also have not given much attention to the plight of the migrant workers. The most severally affected migrant workers are women and children. The agriculture of prosperous State like Punjab depends on migrant workers and therefore, they should legitimately meet out fair treatment, ensure fair housing, adequate wages and social security benefits.

7.272 Though the employment in agriculture is covered under the Minimum Wages Act, the minimum wages fixed by the different States range from Rs. 20 per day to Rs. 60 per day. The wide variations raise questions on the criteria that is followed in fixing the minimum wages. The enforcement of minimum wages is a real problem because inspectors are generally reluctant to visit farms and fields and employers are reluctant to cooperate with them. Ignorance and illiteracy of workers further puts them at the receiving end.

7.274 The Commission believes that agriculture can offer job opportunities to lakhs of unemployed if it is given due priority and the States do not neglect it. Countries like China, Japan, and USA could grow on a strong base and at a faster rate only after giving priority to agriculture. The areas requiring special policies and programmes in agriculture include agro-based food processing industry, cash crops of medicinal plants, floriculture, aquaculture, poultry, horticulture, natural resource management, farm management, technological improvement, bio-technology, multi-dimensional research, development of agriculture financing network, development of markets, etc. The improvement in agriculture could generate employment in agricultural machinery production, fertiliser distribution, construction and in small-scale industry. It is all the more urgent because globalisation has reduced job opportunities in the organised secondary sector particularly in industries and mining.

7.275 There are **a large number of laws which apply to agricultural sector** such as Workmen's Compensation Act, Minimum Wages Act, Personal Injuries (Compensation Insurance) Act, 1973, Bonded Labour System (Abolition) Act, Insecticide Act and Dangerous Machine Regulation Act. Government has also implemented several schemes and programmes for the welfare of rural and agricultural workers.

Considering inadequacy of these measures and welfare schemes, attempts have been made to enact a separate comprehensive law for agricultural workers. However, the efforts of the Central Government have not succeeded so far in this regard because of the opposition of some of the States.

7.279 We have neglected the agricultural sector during the last 50 years although it has been the backbone of our society and economy. It holds the promise of prosperity. It is time that effective framework of laws and social security was put in place for workers in this sector.

7.280 Traditional **forest-based agriculturists,** mostly adivasis, are facing a livelihood crisis following the legislation on forest that has vested monopoly rights in the State over the forest. Today the forest people do not have property rights over their traditional habitat in the forest.

7.281 Forests provide a large number of non-timber products which have been the means of livelihood for millions of people. These products are firewood, tendu leaves, fruits, sal seeds, mahua petals, gum, tamarind, amla, medicial herbs and roots, honey, etc. Though trading in these items is a big business, the collectors of these products do not get adequately paid. Though in some States there are State sponsored bodies like Forest Development Corporations who work as buyers, but they too buy the products at prices that are kept inordinately low.

7.282 The curtailment of rights of forest dwellers and nearby people over the reserved forests has impacted lives of hundred million forest dwellers and another 275 million for whom forests constitute an important source of livelihood. Non-timber forest produce has huge potential in processing industries, particularly for women. Studies have shown that non-monetised consumption from forest products is about 10% of the per capita income, and inclusive of firewood and grazing facility, the benefits tend to equal the per capita income levels. Though the State initiatives have increased the forest cover in the country and reversed the earlier trend, in some areas like State monopoly in non-timber forest produce which has led to monopoly State operations in collection and sale involving a large complement of government/ public sector staff and large overheads, there is scope for reducing the grip and opening up the sector to private initiatives especially for forest people and those dependent on forests like tribals and women-folk.

7.296 We feel that **Taungya workers** are entitled to considerate treatment and should be rehabilitated with alternative jobs/ land, and their villages should be treated as revenue villages.

7.298 **Pastoral Toilers like shepherds and nomads** who depend on domestic animal herds and animal graziers, utilizing village commons and forest lands are another category of self-employed groups who often live below subsistence level.

7.300 When earnings and wages are below the statutory minimum wages, and workers have to live by borrowing, the conditions of workers slide into bondage. When the worker is paid below the dignified wage and the farmer does not get justifiable price for his produce it attracts Article 23 of the Constitution as interpreted by the Apex Court.

7.304 The Apex Court ruling in the Asiad Case has added an important dimension to the definition of bonded labour when the Court ruled that the force arising out of the economic compulsion to make one volunteer to work below minimum wages, is also forced labour.

7.306 The cases of farmers who do not get minimum prices for crops and workers who do not get minimum wages need a correctional legislative step.

7.307 **Aganwari and balwari workers** are getting only nominal wages called honoraria. These, and other similar workers, are considered part of the unorganised sector. They are entitled to minimum wages and relevant social security measures which we propose in the legislation for these workers.

7.308 **Most of the workers in the unorganised sector are women.** The share of casual labour and self-employed workers among female labour is higher compared to that among the male labour. The NSSO round of 1993-94 showed that while 56.8% of female workforce was self-employed the figure for males was only 53.7% and amongst casual labour the percentage of females was 37 against 29.6 for males.

7.309 The Annual Report of the Ministry of Labour for 1999-2000 which is based on **1991 Census gives the following information about unorganised workers.** Out of the total workforce of 340 million, 286 million are main workers and 28 million are marginal workers. Out of the 286 million main workers, 259 millions are in the unorganised sector. In relative terms, unorganised labour accounts for 90.6%. Out of 191 million workers engaged in agriculture, forestry, fisheries and plantations, 190 million (99.2%) are in unorganised sector. Out of 28.92 millions workers in the manufacturing sector, 21.62 (75%) are in the unorganised sector. In building and construction, 78% are in the unorganised sector. In trade & commerce, 98% are in the unorganised sector and in the transport, storage and communication, 61.5% are in the unorganised sector.

7.311 If we find that existing laws do not cover or adequately cover the workforce in the unorganised sector, we have no escape from concluding that more than 90% of our workforce **do not enjoy** the minimum protection and security that they need.

7.313 The alternatives are whether to extend the protection and security by amending the existing laws or by providing an umbrella law that provides a minimum protection, access to social security and redressal of grievances while retaining the existing sub-sectoral laws and sub-sectoral systems.

7.314 **It is necessary for us to examine the laws which are on the Statute Book.**

7.316 **The Factories Act** is applicable only to manufacturing units organised as factories and its provisions do not apply to vast masses of workers in the unorganised sector.

7.317 **The Minimum Wages Act** is the most important law enacted for the benefit of unorganised labour. The Act is meant to ensure that the market forces and the law of demand and supply are not allowed to determine the wages of workers covered by this Law.

7.319 60% of the workforce in the unorganised sector is self-employed or home-based and thus remain outside the purview of the Minimum Wages Act.

7.322 Under the **Workmens' Compensation Act** the employer is liable to provide monetary compensation to workers or dependants in the case of death provided it occurs out of and in the course of employment. The relief under the Act is not available in case the injury takes place when the worker is not actually engaged in discharging duties related to employer's trade or business.

7.323 The method of claiming compensation for disability is so long and tortuous that one rarely gets compensation to which one is entitled by law. Workers often find it difficult to prove employership and as a result cases are prolonged and often workers die without receiving compensation.

7.328 All migrant workers are not inter-state migrant workers as defined by law and cannot therefore enjoy the benefit of **Inter-State Migrant Workers Act.** To prove the applicability of the Act it has to be established that the workman was recruited from another state through a contractor.

7.329 The Commission has, therefore, been urged by many witnesses to recommend amendments to make the Inter-State Migrant Workers Act more effective by recommending application of the Act to all inter-state migrant workers.

7.330 We have made recommendations on the Chapter on Review of Laws.

7.331 **The Building & Other Construction Workers Act 1996** was enacted to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare.

7.332 Any worker between 18 and 60 year can get registered with the welfare board to become eligible for the benefits of the Act if he or she has put in 90 days of work in the previous year.

7.333 Under the above Act a fund has to be created with revenue from cess collected from the employers and contributions by the workers. The benefits include assistance in case of accidents, payment of pension, house building loans, assistance in education of children and maternity and for treatment in case of major ailment. In practice, the Act is not beneficial to the workers, as they do not work with a construction establishment continuously. It is not possible for unskilled and illiterate casual workers to make regular contributions to the fund. The responsibility for collection of contributions from workers and remitting the same to the fund should be entrusted to the employer. Some of the voluntary organisations have alleged that the States have not collected cess because the rules have not been prescribed and several thousand crore rupees of cess have been saved by the builders. They have demanded that the cess should be increased from 1% to 2% and the Act should be applicable to all residential houses without limit of cost of construction. They have also demanded that the board should have powers to regulate the employment of construction workers on the lines of Maharashtra Mathadi Workers Boards.

7.334 **The Contract Labour Act** has many loopholes and is not applicable to a contractor who employs less than 20 workers which leads to manipulations by employers and contractors.

7.335 **The Beedi and Cigar Workers Act** provides for licensing of all premises, provision of health and welfare measures at the workplace, and provides for hours of work, intervals of rest, weekly holidays and also prohibits employment of child labour, nightshifts for women and adolescents.

7.336 The employees who are given raw material by an employer or a contractor for making beedis and cigar at home are covered under the Act. But the Act does not cover the self-employed persons. None of these laws mentioned above provide protection to the vast majority of unorganised workers, self-employed workers or home-based workers.

7.337 There are a number of legislations and welfare measure that provide social security to workers in the organised sector. Some of these are applicable to certain categories of unorganised sector workers.

7.338 **The EPF Act** is applicable to factories & establishments that employ 20 or more persons. A large number of workers working in small units remain out of the ambit of the Act. Though contract workers in bigger establishments are covered, they are often denied the benefits. **The Payment of Gratuity Act** is applicable to all establishments employing 10 or more employees but it requires a continuous service of 5 years or more with one employer to be eligible for gratuity. It is obvious that a large number of workers do not meet this eligibility condition. **The Maternity Benefits Act** confers benefits only if a woman completes at least 80 days of work prior to delivery.

7.340 The Central Government has set up **welfare funds** for workers in some of the mining sectors, cine workers, and beedi workers. For building & construction workers the welfare boards and welfare funds are required to set up by the State Governments (under the Central Act). Among the states, Kerala has the maximum number of welfare funds numbering 20 for the benefit of workers in the unorganised sector. Mathadi Boards exists for various groups of headload workers in Maharashtra.

7.341 Under the **Beedi Workers Welfare Fund Act**, a fixed cess is levied per thousand beedi manufactured. Similarly there is also a cess for building and construction workers. Cess is levid on the mica mines and under other welfare laws on mine products on the basis of quantum of production. Under the **Cine Workers Welfare Cess Act**, the cess is levid on the basis of production of films and not on the basis of collection.

7.342 The **Welfare Funds fall broadly in two groups: tax-based and contributory.** While the **Central Government funds are tax-based,** the **funds set up by the Kerala Government are mostly contributory** which are more akin to social insurance. A combination of contributory and tax-based schemes can bring in resources and also encourage the participation of the actors involved, particularly the workers.

7.343 The Central Welfare Funds are used for improvement of public health, sanitation, medical facilities, water supply, education and prevention of disease. In actual practice, most of the expenditure from welfare funds has been on health, education and housing.

7.344 The Central Welfare Funds have adopted integrated model of healthcare and have undertaken to provide medical services directly. However, this approach of developing its own chain of hospitals does not help the boards or to the needy patients. The Funds could have done better if they had assigned the responsibility to agencies specialising in health.

7.347 The central funds have no provision for meeting expenditure on any of the branches of social security such as occupational injury benefit, invalidity benefit, old age benefit, survivor benefit, unemployment benefit, etc.

7.351 The **Tamil Nadu Welfare Fund** established under the State law for manual workers has established labour welfare centers which consists of childcare centers and tailoring classes for wives and wards of the workers.

7.352 In childcare section, free primary education is provided to children apart from midday meals.

7.353 The Board established under the scheme maintains holiday homes for workers and their families. It has separate TB wards constructed in different Government hospitals and TB sanatoriums.

7.355 For construction workers a welfare fund has been constituted under **Tamil Nadu Manual Workers (Regulations of Employment & Conditions of Work) Act, 1982.** The employers engaged in construction work are required to pay 0.3% of the total cost of construction to the fund and the workers have also to pay registration fee of Rs. 25 which is renewable every two years by paying Rs. 10 p.a.

7.356 The **Tamil Nadu Welfare Board for Construction Workers** provides educational assistance, assistance in case of marriages, maternity assistance in case of death and provides for group personal accident insurance.

7.358 **The Tamil Nadu Manual Workers Social Security and Welfare Scheme** was formulated in 1999. It provides for the establishment of the Tamil Nadu Manual Workers Social Security and Welfare Fund.

7.359 The scheme provides for group personal accident relief, a maternity benefit scheme and a terminal benefit scheme. Workers are entitled to benefit after 12 months of their registration. Besides a grant of Rs. 40 lakhs given by the Government, the Boards received Rs. 47 lakhs from collection of 1% of the Motor Vehicle Tax (till2.3.2000).

7.360 **The Government of Tamil Nadu** has announced a number of new **separate boards such as for auto and taxi drivers, for tailors, barbers, dhobis, palm tree climbers** and **handicraft workers.** A fee of Rs. 25 for registration and a monthly contribution of Rs. 20 are charged from the workers. Now there is a one-time contribution of Rs. 100 including the registration fee. A terminal gratuity and accident death insurance are part of the scheme.

7.361 **Kerala State** has set up **more than 20 welfare funds for unorganised workers** like **toddy workers, agricultural workers, handloom workers, auto-rickshaw workers, cashew workers, construction workers, motor transport workers, some artisans** and others. These provide wide range of benefits including old age benefit, medical care, education, assistance for marriage, housing, etc. to the workers. The schemes are administered by autonomous boards and financed by contributions from employers, workers and others.

7.365 The Central and the Kerala models represent two extremes, one the minimalist approach and the other the maximlist approach. None of these can be considered ideal for what needs to be done is to prepare a standardised list of benefits which may be provided from the welfare funds and to prioritise them, somewhat as follows: healthcare, invalidity, old-age and survivor benefits, maternity and child care, educational assistance, and housing.

7.375 **Mathadi Boards in Maharashtra** have been successful in decasualising the head load workers to a great extent.

7.376 Though many witnesses who appeared before us in Maharashtra as well as in other States extolled the work done by Mathadi Boards and recommended it as a model for the unorganised sector all over India, some witnesses did point out that the system works like a closed shop. Some representatives of the management also felt that this system created a monopoly and resulted in arbitrary fixation of wages.

7.378 There are around 50,000 registered employers with almost 1.5 lakh workers registered under 30 different boards in Maharashtra.

7.379 There are some *mathadis* who earn enough to pay Income Tax. They pay professional tax as well. Their Dearness Allowance is linked to the CPI. The PF contribution of workers is 8.33%. Their hospital contribution is Rs. 20 per month. Wages fluctuate from less than Rs. 1000 to Rs. 10,000 per month. Besides better health facilities and social security, housing and education are also taken care of with the help of the *mathadi* boards. Kerala is trying to integrate or interlink its various enactments in the area of social security, while in Tamil Nadu, the latest trend is towards separate set-ups. The experience of welfare boards in both the States tells us that a motherboard that can accommodate variety serves as a better model. An unnecessary multiplicity of Funds has led to administrative problems in Kerala and proved uneconomical. Cost of administration of central welfare funds has varied from 0.83% of the total benefit expenditure in the case of cine workers fund to 22.1% in the case of the Limestone and Dolomite Labour Welfare Fund. Average of Administrative cost of central welfare funds was 7.96%. In some cases, it will be better to levy cess as a percentage of the sale at various points of transactions like the wholesale, retail, etc. It is advisable to combine tax-based as well as contributory systems of financing of the Fund under the Board, because it would enhance the financial viability of the Fund on the one hand, and the initiative of the workers on the other. The model of the health service provision has proved to be neither popular nor viable. Better benefits can be achieved by adopting the alternative model of reimbursing expenditure, or providing services indirectly by entering into agreement with the providers of the service. Studies show that workers have to spend more on health problems in the unorganised sector and therefore health care must form a component of social security. Central Welfare Funds have a ceiling in the application of the benefits of the welfare funds. This used to be Rs. 1,600, and was raised to Rs. 3,500 in 1991. Income ceilings screen most of the workers from availing of the benefits, and in some cases this measure goes against the very objective of the legislation. In spite of the many problems associated with the welfare funds and their implementation, they provide one of the most important ways of reaching workers in the unorganised sector. We believe that the new structure we are suggesting will overcome these problems. Welfare Boards at the State and Central levels have addressed situations where employer-employee relationships exist. Since most of the unorganised workers are self-employed or home-based, there will be no benefit if we replicate the structure and method of functioning of these Welfare Boards. The Concept of a mother board seems relevant in the light of our experience with the Central and State Boards.

7.382 Fifty years after Independence and the promulgation of the Constitution, if the 90% of the labour force does not enjoy 'guaranteed' rights, there is every reason to say that we have not practiced what we have preached. This provides a fertile ground for the birth and growth of movements that aim at overthrowing the system, like the Naxalite movement or similar violent movements that we see in many parts of the country. One, if not the most important, of the ways of reversing this trend is to fulfil the promises that the Constitution makes to the poor and under-privileged in the unorganised sector, in the rural and in the urban areas.

7.383 **Land reforms** have not been implemented, in spite of reminders from many Commissions, and the manifestos of political parties. Employment opportunities are not adequate. Those in employment often do not get the minimum wages that have been guaranteed in law. Working conditions are deplorable, sometimes, inhuman. It is, therefore, necessary to construct a new legal framework and system of social security that will provide, protection and welfare to the workers in the unorganised sector.

7.384 It is, therefore, **logical and wise to enact an umbrella type of law for the unorganised sector** which would guarantee a minimum of protection and welfare to all workers in the unorganised sector, and would leave it open to the Government to bring in special laws for different employments or sub-sectors if experience indicates the need for it. It will also be open to Governments to repeal exiting sub-sector laws or merge exiting (welfare) Boards with the Boards or Funds that we are suggesting in the Umbrella Legislation.

7.385 **Our Constitution, The ILO Conventions** that we have ratified and the exiting laws together guarantee some rights to the workers. **The Universal Declaration of Human Rights,** proclaimed by the General Assembly of the United Nations on 10 December 1948, is an assertion of the universal right to freedom and life with dignity. Article 23(1) of the Declaration stated: 'Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.' This UN Declaration is one of the basic documents on human rights and justice that has become a standard setter for peoples, communities and nations.

7.387 The need to extend special attention and care to the child has been affirmed in the **Geneva Declaration of the Rights of the Child** (1924) and in the **Declaration of the Rights of the Child** adopted by the General Assembly of the UN in November **1989** (to which India acceded in 1992).

7.390 **Fundamental Rights** include the right to equality **(Article 14)**, the protection against discrimination **(Article 15)**, the rights to freedom of speech and association **(Article 19)**, the rights to life and personal liberty **(Article 21)**, **protection against traffic in human beings, protection from forced labour (Article 23),** and the rights of child **(Article 24). Directive Principles of State Policy** (Part IV of Constitution, **Articles 36 to 51**) spell out the concept of social security. Article 38 of the Constitution requires the state to strive to promote the welfare of the people by 'securing justice – social, economic and political, and minimise inequalities in incomes and status between individuals, groups and regions.'

7.392 **Article 39 (a), (b) and (e)** of the Constitution requires that the citizens have the right to adequate means of livelihood, that the material sources are so distributed as best to serve the common good, that the health and strength of workers and the tender age of children are not abused, and that citizens are not forced by necessity to enter avocations unsuited to their age or strength. **Article 41** requires that within the limits of its economic capacity and development, the state shall make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in other cases of undeserved want. **Article 42** requires that the State should make provision for securing just and humane conditions of work and maternity relief. **Article 43** requires that the state shall endeavour to secure work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities. **Article 47** requires that the State should regard the raising of the level of nutrition and the standard of living of its people, and improvement of public health, as among its primary duties.

7.393 **Section 2(1) (d) of the Protection of Human Rights Act, 1993** (Act 10 of 1994) defines human rights as 'the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution. This Act also justifies the need for legislation in favour of workers who are not yet covered by existing legislation.

7.394 **ILO Conventions** are codifications of universally applicable labour standards and have led many countries to accept labour rights as basic rights. Its Conventions protect children from labour, women from night shifts, and all workers from forced labour. **In 1998**, the ILO adopted the **Declaration on the Fundamental Principles and Rights at Work';** These Fundamental Principles lay down (1) Right to Organise and Collective Bargaining (Conventions 87 and 98), (2) Abolition of Child Labour (Conventions 138 and 182), (3) Elimination of Discrimination (Conventions 100 and 111) and (4) Against Forced Labour (Conventions 29 and 105). The follow-up mechanism envisaged in the Declaration makes it binding on member states, irrespective of the fact whether the concerned state has ratified the Conventions or not and to submit annual reports to the ILO on the observance of the respective Conventions.

7.395 It is, therefore, **necessary to ensure that the proposed Umbrella Legislation for Workers in the Unorganised Sector incorporates the core rights** that have been enshrined in the **Constitution of India, UN Covenants and ILO Conventions.**

7.396 Let us **recapitulate the reasons that lead us to the conclusion that a new and separate umbrella legislation is imperative to protect the workers in the unorganised sector.** Labour laws do not offer protection and welfare to workers in the unorganised sector. Whatever exists is inadequate. Our Constitution and the international agreements we have entered into give us the mandate to secure their protection. The Unorganised Sector including the agricultural sector accounts for more than 92% of the total workforce, i.e., around one-third of India's population. In absolute terms, this sector contributes more to the economy and employment in India. National Accounts Statistics Report of 1995 confirms that nearly 65% of the national income is contributed by the Unorganised Sector. These workers, particularly women, have not been able to organise themselves and are further discriminated against. The existing labour laws do not define most of them as workers because a principal employer is not easy to identify in these kinds of work. If properly conceived and effectively implemented, a law for unorganised sector cannot be wished away. The national 'divide' between the Organised Sector (Formal) and the Unorganised Sector (Informal) of the country's economy, and the workers/labour engaged in them, is unreal because these sectors are interdependent. Legislation cannot be effective unless it integrates their needs for protection and welfare with those of the rest of our society and economy.

7.398 Workers in the Unorganised Sector are not recognised as workers. The first objective should be recognition of these workers by including them in official surveys.

7.399 To achieve recognition as a worker each person who is actually working should be given an official identity card. The identity card gives the worker a definite legal identity and recognition.

7.400 It is argued that the sheer magnitude of numbers in India would make the identification of workers an impossible task. However, in a country where voters lists are prepared, taking into account every adult over the age of 18 years, voters identity cards and ration cards are issued for every family, listing all family members, and a census covering 100 crore people is conducted every ten years, it should not be too formidable a task to identify every worker.

7.403 Workers in this sector are entitled to protection and welfare not only because they are citizens, but also because they are the main contributors to the wealth of the nation. Today, even without these entitlements they contribute their labour, skill and entrepreneurship to the economy. When provided with these entitlements, their productivity as well as their purchasing power will grow. They will add to the country's gross national product, strengthen the economy and help fight economic crises. If their economic contribution is not recognised and enhanced, if they continue to be treated as the recipients of safety net policies, they will continue to be poor beneficiaries, living constantly on welfare and subsidies.

7.404 As structural adjustment proceeds, the entitlements of the organised sector are getting eroded, and the need for social security systems is becoming more urgent and central to the success of structural adjustment programmes. The concept of social safety nets may not be feasible in the economic situation that prevails in India. Difficulties may deepen with the increasing marginalisation of labour. Social safety nets would be viable if the number of people who 'fall' into them constitutes a small percentage of the workforce.

7.405 This also means that the right to work would have to be viewed as a necessary concomitant of the right to social security. According to us, social security must contain at least healthcare (including maternity, injury), childcare, shelter and old age support that strengthens productivity

7.406 Suggestions of and recommendations of various Committees or Commissions have exercised considerable influence on the concept of minimum wages. The criteria for calculating minimum wages came from the Committee on Fair Wages, the sessions of the Indian Labour Conference, the Central Pay Commissions, ILO Conventions, Reports of the National Commissions, on Rural Labour and Agricultural Labour, the Committee in Wage Policy, the Committee of Secretaries, the Study Group on Wages, Incomes and Prices, and the Minimum Wages Advisory Boards.

7.408 The Report of the First National Commission on Labour devoted attention to labour in the unorganised sector and suggested that there should be detailed surveys from time to time to understand the problems of different categories of such labour. There should be protection by the state for unorganised/unprotected labour and their education and organisation should be improved.

7.409 The Commission on Self-Employed Women (Shram Shakti) enlarged its scope to include women workers in the unorganised sector and looked into the status of self-employed women with special reference to their employment, health, education and social status, and constraints that affect productivity; the impact of various labour laws, especially those on maternity benefits and health insurance, on self-employed women; gaps in training, credit, upgradation of skills and marketing; employment patterns including production relations and their impact on wages, and the effect of macro level policies on the health and productive and reproductive role of self-employed women.

7.412 The most important intervention towards improving the economic status of poor women working in the informal sector of the economy would be to devise strategies which would enhance their ownership and control over productive assets.

7.413 The Commission noted flagrant violation of statutory provisions regarding payment of wages, safety regulations, provision of housing and medical facilities, accident compensation, etc. In the context of non-observance of these laws, the Commission recommended simplification of judicial procedures, particularly to enable unorganised workers to obtain legal redress.

7.414 For domestic workers, the Commission recommended the introduction of a system of registration.

7.415 Though 51% of the working women are engaged in farm labour, their contribution is not recognised. Women involved in seasonal agriculture should be helped to diversify into horticulture, fruit processing, vegetable growing, animal husbandry and dairying.

7.416 The Commission observed that the rates of minimum wages were low and would have to be increased keeping in view the requirements of the women worker. Piece-rates must be so fixed as to enable women workers to earn for 8 hours of work a wage equal to the time-rated minimum wage. Despite the Equal Remuneration Act 1976, wage discrimination was widely prevalent.

7.417 The Commission further recommended that the Right to Work, already a Directive Principle, should be made a Fundamental Right.

7.418 The Commission recommended setting up of an Equal Opportunities Commission under a central law, and also recommended that the Commission should have wide powers of investigation, direction, advice and monitoring.

7.419 The Commission recommended setting up of Tripartite Boards which have to be constituted in such a manner that workers have as many representatives as the government and the employers. The Tripartite Boards will regulate implementation of legislation and also contribute to making women workers visible, and empower them.

7.420 It recommended setting up of a Central Fund from which welfare and social security measures for women workers should be financed.

7.421 Another recommendation of the Commission was that a separate wing should be set up in the Labour Departments for unorganised workers with adequate number of women employees.

7.422 The Commission also felt that no solution to the problems of women at work would be complete without taking into account their reproductive functions, which can be effectively tackled through maternity benefit and childcare. Responsibility for this should be borne by all employers, irrespective of whether or not they employed women, through a levy calculated as a percentage of the wage bill. If the employer was not identifiable, the responsibility for providing maternity benefits must lie with the state.

7.424 The Commission underlined the need for an integrated perspective on health as most of the health problems that women faced, related to their general life situation, which aggravated the problems they faced as workers such as inadequate nutrition, non-accessibility to healthcare, water, housing, sanitation, maternity benefits and childcare among others.

7.427 The National Commission on Rural Labour estimated Agricultural labour to be around 110 million or 73% of the total rural labour with nearly half belonging to the Scheduled Castes and Scheduled Tribes and suggested that a multi-dimensional strategy was needed to lift agricultural workers from the vortex of poverty. It also suggested that an infrastructure had to be created for irrigation, drainage, flood control and rural electric supply; it was essential to enforce minimum wages and social security; it was necessary to introduce central legislation for agricultural labour providing security of employment, prescribed hours of work, payment and that a Welfare Fund should be set up with employers' contribution in the form of a cess which would make provisions for (a) maternity leave for women agricultural labour, (b) old age pension at a minimum of Rs. 100 per month.

.430 The 34th session of the Indian Labour Conference (ILC) held in December 1997 recommended that the Government should issue identity cards to all workers both in the organised and unorganised sector in a phased manner.

.431 The ILC recommended that all the State Governments and Union Territories emulate the example of the Government of Kerala and a few others, who had set up Welfare Funds which would go a long way in meeting the bare minimum welfare needs of the unorganised workers.

.433 We have to address the question, what is the minimum that the Umbrella Legislation for Workers in the Unorganised Sector should ensure. There should be a policy framework that ensures the generation and protection of jobs and access to jobs; protection against the exploitation of their poverty and lack of organization; protection against arbitrary or whimsical dismissals; denial of minimum wages and delay in payment of wages, etc. The system of welfare should include access to compensation for injuries sustained while engaged in work; provident fund; medical care; pensionary benefits, maternity benefits and childcare.

.434 The law should be capable of being implemented and monitored easily. It should, therefore, include machinery for the disposal of claims and complaints at a place that is not too distant from his place of work, with expedition.

.435 The system for Social Security must be such that the worker can make a commensurate contribution to the cost, consistent with as many of his needs as possible, and deliver the services as near his place. The machinery should not be cumbersome, costly, centralised, and burdened with many administrative layers and overheads.

.438 The labour policy set out in the five-year plans since Independence was based on the belief that the basic needs of workers for food, clothing and shelter must be satisfied.

.441 An important aspect of labour policy outlined in the Seventh Plan relates to the formulation of an appropriate wage policy, and provisions for the welfare and working and living conditions of unorganised labour not only in the rural sector but also in urban areas. The Eighth Plan (Chapter VII) said that improvement in the quality of labour, productivity, skills and working conditions and provision of welfare and social security measures, especially of those working in the unorganised sector was crucial for enhancement of the status of labour. The plan laid emphasis on the enforcement of labour laws especially laws relating to unorganised labour and women and child labour.

7.444 In looking at the need for social security in the unorganised sector and the demands on a system of social security in the unorganised sector, we have to keep certain characteristics of the sector in mind.

7.445 A major obstacle to introducing contributory social insurance schemes for the unorganised sector is the difficulty in identifying the employer. Unlike the organised sector where steady and regular employment is more or less a given fact, unorganised sector workers need employment security, income security and social security simultaneously. The needs of these workers often vary from those workers in the organised sector.

7.447 We have to see how these constraining factors can be eliminated or mitigated to extend the benefits of social security to workers in the unorganised sector. We should not lose sight of the fact that in this sector social security should have promotional and preventive aspects addressing employment and income security and covering healthcare, childcare and old age.

7.448 The Social Security measures for the Unorganised Workers should include healthcare, maternity and early child care, provident fund benefits, family benefits, amenities benefits including housing, drinking water, sanitation etc., compensation or employment injury, retirement and post retirement benefits, cover in cases of loss of earning or the capacity to earn, schemes, either independent or in association with the Government, Welfare Bodies, NGOs and Social Organisations, for the upgradation of skills and the education of workers, and elimination of child labour, forced labour, and unfair labour relations and practices.

7.457 Before going into modalities of setting up of an Unorganised Sector Workers Board it is necessary to classify the occupation in the unorganised sector.

7.458 Minimum wage legalisations have listed certain employments/ occupations.

7.459 Industrial classification of economic activities has not been found helpful in arriving at the kind of distinct groups/classes of occupations and processes exiting in the unorganised sector

7.460 The factors considered for classification are recruitment, payment, unionsation, casual nature, relation to child labour, family labour, migrant labour, wage and earning levels, skill levels, home-based activities, source of raw material, access to capital, nature of output, occupational hazards.

7.461 We have classified workers in this sector on the above basis.

7.463 National industrial classification of economic activities is on the basis of nature of economic activity carried out in an establishment. The National Classification of Occupations 1968 bases its report on the nature of occupation. In the unorganised sector both these principles can be used but combined with other elements.

7.464 If the classification is based on the distinction between the workers and a producer it will be more or less equivalent to distinction between the employed and the self-employed. In our analysis, no substantial group emerged as merely self-employed or employed. In almost all occupations we can find both self-employed and employed workers.

7.466 In some cases the same person is employed in different occupations. For example a marginal farmer is working as producer, own account worker and also self-employed. Further the same person gets employed as agricultural worker / and also as construction worker.

7.468 We believe that classification should be an on-going process. For instance if a child labour prone group exists under the board, after some time the group can be removed when sufficient improvement is reported in the incidence of child labour in that group. There should also be flexibility to accommodate newer classes and eliminate exiting classes.

7.469 We are suggesting a tentative but a comprehensive list of groups that can be useful in wage fixation and in undertaking studies to assess the undergoing changes in respective groups of industry and occupation. For the purpose of social security measures and cess collection, separate group-based consideration would be necessary.

7.472 It is clear to us that crucial guarantees of justice lie in minimum wages, job security, safety and social security.

7.473 To meet these crucial requirements we propose the constitution of unorganised sector workers board with constituent bodies that will extend to the level of Panchayats.

7.474 The employers employing more than 5 workers shall ensure that the workers engaged by them are registered with the board and issued identity cards by the boards and those employing less than 5 workers shall help the workers in securing the registration and identity cards.

7.475 An indicative bill for the workers in the unorganised sector to ensure their minimum protection and welfare has been appended in our report.

5

NATIONAL HUMAN RIGHTS COMMISSION

REPORT OF THE EXPERT GROUP ON BONDED LABOUR: 31-05-2001

1.The Supreme Court, in its order dated 11.11.1997, passed in writ petition (Civil) NO.3922 of 1985 requested the NHRC to get involved in the monitoring of the implementation of the Bonded Labour System (Abolition) Act 1976 and the directions of the Supreme Court issued in their order dated 13.5.94 in the Writ Petitions (Civil) 3922/85 with WP (Criminal) 153/82. The records of the writ petitions (Civil) 3922/85 – People's Union for Civil Liberties vs. State of Tamil Nadu and others - along with those of WP (Crl.) 153/82, - Jyoti Prakash vs. State of M.P., - WP(C) 166/95-Aman Hingorani Vs. Union of India and WP (C) 380/96- Dr. Ambedkar Manavadhikar Evam Lok Kalyan Sansthan vs. Union of India – were also transferred to the NHRC. The Supreme Court order dated 11.11.1997 clearly stated that the desired involvement of the NHRC in matters relating to bonded labour would follow the manner indicated in the order passed by the Supreme Court on 11.11.1997 itself in Writ Petitions (Criminal) No. 1900 of 1981 requesting the NHRC to be involved in the supervision of the working of the Agra Protective Home to "ensure that the Home functions in the manner as is expected for achieving the object for which it has been set up" and that "the concerned authorities would promptly comply with the directions given by the NHRC".

2. The Statement of Objects and Reasons of the Bonded Labour System (Abolition) Act 1976 traces the origin of the Law to Article 23(1) of the Constitution which prohibits "Begar" and other similar forms of forced labour which are still prevailing in different parts of the country and constitute an "infringement of basic human rights and destruction of the dignity of human labour". The NHRC views the responsibility assigned to it from the angle of this constitutional guarantee incorporated in the Bonded Labour System (Abolition) Act, 1976 the scope of whose definitional aspects has been clarified

by the Apex Court in its judgements given in the land mark cases, the Asiad Workers Case (1982) and the Bandhua Mukti Morcha Case (1984).

3. The NHRC took up the monitoring of implementation of the Bonded Labour System (Abolition) Act 1976 in early 1998. It focussed its attention on the thirteen States of Andhra Pradesh, Arunachal Pradesh, Bihar, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh, identified as bonded labour prone areas by the Union Labour Ministry on the basis of several study reports particularly those made by the Gandhi Peace Foundation (1978-80) and the National Sample Survey Organisation (1977-78). Shri K R Venugopal, IAS (Retd.) Special Rapporteur of the Commission made an extensive study of the bonded labour situation in Andhra Pradesh, Tamil Nadu and Karnataka in April 1998 and submitted a status report giving a detailed account of the follow-up on the directions of the Supreme Court given in November 1996 for carrying out a survey of the bonded labour in their respective areas and arrange to rehabilitate the released bonded labourers. He has been sending periodical reports to the Commission giving the status of the situation and performance appraisal of the Governments of these three States, namely, Andhra Pradesh, Tamil Nadu and Karnataka in clearing the pending cases of rehabilitation as well as fresh identifications and follow-up. Shri Chaman Lal, IPS (Retd.), Special Rapporteur who is associated with the monitoring of the Child Labour situation in the carpet belt of UP (Districts Varanasi, Bhadoi, Mirzapur, Jaunpur, Sonebhadra and Allahabad) has also been submitting reports to the Commission on Child Bondage in these areas. The Commission has also been considering individual as well as collective petitions pertaining to the practice of bonded labour in the brick kilns and stone quarries of Western MP, Delhi, Haryana and Rajasthan. The Commission has been keeping the Supreme Court informed about the steps taken by it to discharge the responsibility entrusted to it.

4. The Commission is keen to expand the area of monitoring and evolve a suitable mechanism to constantly review the bonded labour situation and implementation of the provisions of the Bonded Labour Act in all the States identified as afflicted by this pernicious practice. For this purpose, it has felt the need for an assessment of the bonded

labour situation in the country, the extent and effectiveness of the Bonded Labour laws, and the performance and impact of the Centrally Sponsored Scheme (CSS) drawn up for the rehabilitation of the released bonded labourers in various States/UTs. It wants to take up the issue of bonded labour as a special subject, strengthen the existing arrangements of monitoring and improve the modalities of its interaction with the Ministry of Labour, Government of India and the various State Governments.

5. The Commission on its order NO. 2/1/97-PRP&P dated 22.9.2000 constituted the following Group for preparing a report on the present status, improvement of the existing schemes and recommendations to effectively implement the laws for the abolition of the bonded labour system:

i. Shri S R Sankaran, IAS (Retd.) Former Secretary, Rural Development, GOI.
ii. Shri K R Venugopal, IAS (Retd.), Special Rapporteur, NHRC.
iii. Shri K B Saxena, IAS, Secretary, Dept. of Official Language.
iv. Shri Vivek Pandit, Samarthan, Mumbai, Social Activist.
v. Swami Agnivesh, President, Bandhua Mukti Morcha, New Delhi.
vi. Shri Harsh Mander, IAS, Country Director, Action Aid.
vii. Shri Chaman Lal, IPS (Retd.), Special Rapporteur, NHRC.

6. The terms of reference of the Group were spelt out as follows:

i. Identification of bonded labour-prone Districts and industries and occupations employing bonded labourers.
ii. Review the existing laws relating to bonded labour in India and their enforcement.
iii. Examine the structure of the enforcement system of Bonded Labour Laws and suggest improvements.
iv. Training on legal aspects and enforcement of the Bonded Labour Act for different target groups such as (i) the officers of Revenue, Labour and Police Department (ii) Advocates and lawyers who handle bonded labour cases and (iii) Public Prosecutors, etc.

v. Seminars and workshops at District and State Levels for bringing together the Government officials and NGOs for a better understanding of their role and responsibilities in a collaborative effort.

vi. Study the various Poverty Alleviation Programmes in operation with a view to ensuring their effective implementation in the rehabilitation of bonded labourers.

vii. Analyze and disseminate information relating to judgements/orders of various High Courts and the Supreme Court relating to bonded labour laws.

7. The Group elected Shri S R Sankaran, IAS (Retd.) as its Chairman in view of his pioneering work and vast experience in the field of bonded labour. It has held four meetings at the NHRC, New Delhi on 8th December 2000 and 16th January, 28th February and 24th April 2001. It discussed in detail the various reports that had been submitted by Shri K R Venugopal to the NHRC and the background information provided by him in respect of Andhra Pradesh, Tamil Nadu and Karnataka. Shri Chaman Lal appraised the Group of the periodical reviews made by him in the carpet belt of UP and some rough assessment of the situation in Punjab and Haryana. The Group had the benefit of hearing Shri Vivek Pandit about the extent and quality of implementation of the Act in Maharashtra. Swami Agnivesh has helped the Group immensely in understanding the general situation relating to bonded labour all over the country. Shri K B Saxena and Harsh Mander and all the Members of the Group made valuable suggestions during the discussions in the meeting, including by way of submission of their considered views in writing. The Group received invaluable guidance from its Chairman Shri S R Sanakaran.

PART – 1: PRESENT STATUS

8. The status of the work relating to the abolition of the bonded labour system in the various States that has emerged from the deliberations of the Group shows the following important features:

i. There has been no country-wide survey to enable an authentic assessment of the magnitude of the problem. Besides a national survey to be undertaken by the Ministry of Labour or National Sample Survey Organization (NSSO), there is a strong case for State specific surveys in view of the regional peculiarities of the problems.

ii. Though the Ministry of Labour has identified only 13 States with 172 Districts as bonded labour-prone, examination of the problem in the light of the 'Bandhua Mukti Morcha' and 'ASIAD', judgements of the Supreme Court would leave no one in doubt about the prevalence of bonded labour in almost all the States/UTs.

iii. High incidence of bonded labour in the agriculture sector is an established fact in the States of Andhra Pradesh, Bihar, Haryana, Karnataka, Maharashtra, Orissa, Punjab, Tamil Nadu and MP. Indebtedness of the rural populace is found to be a major causal factor with the SCs/STs suffering extreme vulnerability. In the non-agricultural sector, the practice of bonded labour is rampant in brick kilns, stone quarries, beedi manufacturing, carpet weaving and construction projects and of bonded child labour in the sericulture processing industry.

iv. Migrant Bonded Labour involving States such as Bihar, Jharkhand, Chattisgarh, Tamil Nadu, MP, Orissa, Rajasthan, Punjab and Haryana presents an aggravated form of deprivation and exploitation. Failure of the State/UT Governments to enforce the provisions of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 (IMWA), the Contract Labour (Regulation and Abolition) Act 1970 (CLA) and the Minimum Wages Act 1948 (MWA) is the most important causal factor of bondage of migrant workers. The issue deserves an in-depth analysis as a subject of special study.

In varying degrees, the approach of the State Governments is to refuse to acknowledge the problem of the existence of the bonded labour system in their respective States. In States like Karnataka and Himachal Pradesh, there was an outright denial of the existence of the bonded labour system at all while, in States like Andhra Pradesh, the initial strategy is to acknowledge its existence but to ignore it as if it did not matter. In Tamil Nadu, all the right things were done such as the appointment of a Minister and a Special Officer specifically for this work but the quality of the work depended entirely on the commitment of individual officers and, therefore, the progress was not as rapid as it should have been.

vi. A number of States are found to be deluding themselves into believing that with the coming into force of the Bonded Labour Act in 1976, all the bonded labourers had been freed and the Bonded Labour System totally abolished in their area. It is sometimes difficult to know whether this denial is a deliberately put on act of naiveté or a stratagem to mislead others. In all probability it is the latter.

vii. The kinds of results achieved in the States show that only when the highest political executive namely the Chief Minister was told in no uncertain terms that the State could face embarrassment in its relations with the NHRC and the Honourable Supreme Court that any worthwhile progress resulted. With crude politics and its compulsions taking hold of governance in the Country, the Civil Service has become less and less autonomous surrendering its own initiatives and even duties and responsibilities cast upon it under the law so much so that unless the Chief Minister of a State clearly indicates what his political priorities are, no justice gets done to the poor in general and the poorest of the poor in particular like the bonded labourers. The Andhra Pradesh experience illustrates this most graphically. It is, therefore, absolutely essential that mechanisms have to be devised to squarely hold the political leadership in the States responsible for the implementation of the Bonded Labour System (Abolition) Act 1976, and other laws that have a bearing on it such as those relating to minimum wages, equal wages, migrant labour, contract labour etc. This is the single most important reform we need for it is time, after 50 years of democratic governance, every body realizes that those who are voted to power by the people shall be held accountable to their actions and not merely the faceless civil servants who in any event have to carry out the orders of the political masters.

viii. Even though the Central and the State Governments have been heard to publicize their commitment to the eradication of poverty as their main goal of governance, they have not shown commitment to this goal, particularly in the context of the poorest of the poor, represented by the bonded labourers. It is important, therefore, to establish this first principle that in poverty eradication efforts the first priority should be for the poor in bondage, including children.

ix. The field level functionaries and even their supervisors in the Departments responsible for bonded labour work are found generally lacking in clarity about the definitional aspects of the work despite the clarifications issued by the Supreme Court. Efforts to identify fresh cases of bondage and monitor the conditions of released labourers and detect cases of relapse have been lacking in almost all the States/UTs though in the States of Tamil Nadu and in the recent weeks in the States of Andhra Pradesh and Karnataka, there has been some progress. For such fresh identifications as have been made in the other States during this period, some of the credit should go to the voluntary organizations and social activists who have been bringing such cases to the notice of the NHRC by way of petitions before the NHRC.

x. Even the small number of fresh identifications done thanks to the efforts of the zeal and enthusiasm of some public spirited activists and NGOs, are not always followed up by the District authorities. The authorities are found lacking in response to the complaints of bonded labour brought to their notice. Instead of acting promptly on such complaints and effecting the identification and release of the bonded labourers, they are even found helping the keepers of bonded labourers in arranging the dispersal and disappearance of bonded labour after hurriedly settling their accounts.

xi. Identification of a bonded labourer is to be followed by his immediate release. However, in most of the cases there occurs a long time lag between the identification and the release with adverse effect on the prosecution of the offenders. Release is found to be incomplete and a mere paper formality in many cases as it is confined to the physical freedom of the victim without ensuring his freedom from debt and further exploitation. It has been noticed in several cases that even after the bonded labourer has been identified and got released, he has not been issued the release certificate. It is worth noting that neither the Act nor the Rules made thereunder provide for release of the bonded labourer and there is no specific provision for issuing of a release certificate by the DM. This legal lacuna needs to be removed with the incorporation of a provision for release in the Act.

xii. The Vigilance Committees provided for under the Act have not been found efficient and effective in discharging their responsibilities. In fact most of the State Governments have not yet constituted Vigilance Committees for all the Districts and Sub-Divisions though the situation has greatly improved in the recent years in the States of Tamil Nadu, Andhra Pradesh and Karnataka. Even in a State like Haryana, notorious for the prevalence of bonded labour in agriculture as well as the non-agriculture sectors, District Level Vigilance Committees were not in position in two Districts as recently as March 2001. Even where these Committees have been constituted, they have turned dormant because they are hardly holding any meetings. In some cases, the terms of duration of the non-official members has elapsed and no fresh nominations have been made. Social activists and NGOs working for the cause of bonded labour are not receiving adequate representation on these Committees. The State/UT Governments do not appear to be monitoring the functioning of the Vigilance Committees excepting in Tamil Nadu. The Vigilance Committees are meant, in an administrative sense, to provide continuity in the drive against the practice of bonded labour in view of frequent transfer of the DMs. This objective is not met because of the reasons mentioned here. Their involvement in identification, release and rehabilitation of the bonded labourers is thus found to be totally missing almost everywhere with virtually no fresh identifications having been made any where in the country as a result of the efforts of these Committees.

xiii. Prosecution should go hand in hand with the identification and release of the bonded labourer. However, the State Governments as well as the statutory authorities are found lacking in concern for prosecution with the result that prosecution of the keepers of bonded labour has been very rare. Wherever cases have been registered, investigation is found to be tardy, the trial slow and conviction rate almost nil. The situation has undergone no significant improvement since the GPF and NLI study (1977-80) which had revealed that only 1.35% of the reported cases were registered, 32% of the culprits were arrested and only 0.08% actually given prison sentences. It is also observed that the provision of the summary trial available under section 21(2) has rarely been used. The enforcement authorities are found to be ignoring the fact that the engagement of bonded labour is a violation not only of the BLA but also a host of other related enactments such as the IMWA, CLA, MWA etc.

xiv. Owing to the efforts made by the NHRC through its Special Rapporteur system, the latest reports show that the first results have started coming in. 1,069 cases of bonded labourers have been identified in the State of Karnataka and another 1,212 cases of suspected bonded labour are being investigated into. In Tamil Nadu since the survey of 1996-97, 10,850 have been identified. A total expenditure of Rs. 9.21 crores has been incurred towards relief and rehabilitation measures so far. District Vigilance Committees have been constituted/reconstituted in 28 of the 29 Districts and Sub Divisional Vigilance Committees have been constituted/ reconstituted in all the sub divisions except 15. Taluk Vigilance Committees though not provided for in the Act have also been constituted in as many as 107 taluks, as per the guidelines given by the NHRC to strengthen monitoring. In Andhra Pradesh, so far 3122 new cases of bonded labourers have been identified mostly during the course of the second fortnight of March 2001. District Vigilance

Committees have been constituted in all the 23 Districts and Sub Divisional Vigilance Committees have been constituted in all the 79 sub divisions.

PART-II: POSITION OF THE EXISTING SCHEMES

9. The Centrally Sponsored Scheme for rehabilitation of the released bonded labourers does not seem to have produced the intended results. A huge time lag between release and rehabilitation is a common feature of the operation of this scheme in almost all the States/UTs. Delay and slackness in rehabilitation is found to be the most potent cause of relapse of the released worker into bondage. In some cases in UP, Karnataka, Tamil Nadu and Andhra Pradesh the released bonded labourers have been forced to return to their erstwhile exploiters because of their inability to bear the hardship of deprivation after their release. In some cases they have been compelled to accept more cruel terms of employment imposed by the vindictive ex-masters who wanted to teach them a lesson for escaping from their clutches.

10. The CSS depends on the release of the matching share (50%) by the State/UT Governments which is either not done or done late and done inadequately. Delay in submission of the Utilization Certificates (UCs) by the District Magistrates (DM) to State/UT Governments and by the latter to the Central Government is also a common cause of slow progress in the release of finances under the CSS which affects rehabilitation adversely.

11. The much talked about integration of the CSS with the anti-poverty programmes and other developmental and welfare schemes in existence in the States and the Centre does not seem to have been achieved to any significant extent in any state with the result that the CSS has virtually become a uni-dimensional scheme of cash disbursement plagued by the defects referred to in the previous paragraphs.

12. The land-based rehabilitation measures are found to have brought meagre returns for want of sufficient infrastructure and inputs. In many cases the land allotted to the released labourers was found unfit for agriculture. The non-land based schemes are found to be suffering from lack of credit facilities for consumption needs and

productive operations and want of forward and backward linkages and absence of monitoring.

13. Efforts on the part of the State Governments have been found wanting in ensuring release and effective rehabilitation of the migrant bonded labourers. The exception, to some extent, has been Tamil Nadu. It is observed that the States where these workers are identified often do not cooperate with the parent States by way of helping the release of the bonded labourers. At best they wash their hands off by issuing release certificates and dispatching the released bonded labourers to their parent States where they receive no sympathy and attention. In some cases the DMs of the parent Districts have refused to entertain the release certificate and take up rehabilitation. In a number of cases handled by the Commission, DMs also received documents from the identifying Districts with vital omissions and discrepancies making it genuinely difficult for them to arrange rehabilitation grants for the victims.

14. The Group feels that there is a strong need for laying down a clear-cut policy and elaborate guidelines regarding the rehabilitation of migrant bonded labourers.

15. The bonded labour rehabilitation efforts in the context of the poverty eradication strategies have to be implemented in a convergent mode. Despite lip service to this principle, very little gets done in this manner at the field level in the States. Convergence should be at 3 parallel levels – amongst the departments of the Governments relevant to socio-economic development and welfare, amongst the NGOs working in the sphere of socio-economic development and between the Government and the NGOs in a collaborative mode. This convergence should be both in regard to mobilization of financial resources available from all sources such as all the departments of the Government and NGOs and human resources of both Government and voluntary organizations. Credit – both consumption and productive – is vital and central to the eradication of the bonded labour system. At a time in our country's history when both the Central and State Governments are turning a cold shoulder to the poor, the banking system has become evermore hostile to the needs of the poor. We need a legal and judicial framework to rectify this dangerous development. The right of the poor to work and to

adequate credit has to be statutorily guaranteed. It is essential that this kind of a comprehensive strategy of poverty eradication is institutionalized. In the process of rehabilitation of the released bonded labourers, as in the case of all efforts aimed at poverty eradication, organizing the poor into groups would also be a vital strategy. Bringing them together as a group gives them a sense of strength and, therefore, an ability to protect themselves as also to enhance maximization of the results of the beneficial measures provided to them. Organizing them into cooperatives will be a very helpful strategy in this context so that the social and economic benefits of a cooperative structure can be accessed by them. Consumption and productive credit being a key requirement in poverty eradication, and especially in the lives of the released bonded labourers, co-operatization would be a significant strategy in the rehabilitation of released bonded labour.

16. The importance of the role of the NGOs can hardly be over emphasized. At best, however, the Governments are ambiguous in their approach to the voluntary sector. They have no real desire to empower the NGOs and in fact in States like Andhra Pradesh they are being co-opted rather than empowered. In Karnataka there is down right hostility to the NGOs. The Group strongly feels that the role of the NGOs needs to be statutorily recognized. The most significant duty and responsibility of the NGOs would be in the area of social action which calls for not only their identifying the bonded labourers but more importantly in creative and educational campaigns amongst the poor in general and those bonded in particular against practices like borrowing and spending excessively on unnecessary habits and customs and in favour of temperance in the consumption of alcohol. Encouragement of thrift as part of this campaign would ensure the disappearance of bondage in the near future.

17. These observations of the Group's findings to the extent they can be rectified through law should find a mention appropriately in the statute relating to bonded labour and the rest by way of corrective actions to be initiated through the NHRC itself so that a lawful, verifiable and accountable responsibility is cast on the Governments and also on the civil society, the discharge of which should be a subject of judicial review as well as a review by the NHRC. Accordingly, the Group makes certain recommendations in the

following pages - those relating to the Law on the subject and others by way of an Action Plan for the NHRC.

18. Before setting down these recommendations, the Group wishes to place on record its conclusion that the most fundamental and the single most important imperative for successfully dealing with the question of bonded labour is an honest desire on the part of the political leaders of the country. This, the Group believes, is singularly lacking. The absence of focus on issues relating to the abolition of the bonded labour system is really the absence of political will or a lack of desire on the part of the political leadership in various States. This lack of political will disguises itself in the minds of the bureaucracy as problems of definition in the bonded labour law. The absence of political will and political commitment to the abolition of the bonded labour system has led to the bureaucracy blandly denying the very existence of the bonded labour system in certain States like Karnataka, Punjab and Himachal Pradesh. Certain other States tactically acknowledge the existence of the bonded labour system but make it appear that it is so negligible that it calls for no particular effort to deal with the problem with any sense of urgency. This leads to the non-implementation of some of the most essential provisions in the Act such as the identification, release and rehabilitation and the constitution and convening of the District and Sub-Divisional Vigilance Committees. Though the Act has empowered the Executive Magistracy to try the offences and impose punishment, the Executive Magistracy rarely acts in terms of the powers conferred on them, thanks mainly to their belief that it pleases their political masters if they did not act against employers of bonded labour. The first and foremost recommendation of this Group, therefore, is that the Supreme Court and the NHRC should devise means to hold the Chief Ministers of the States squarely and personally responsible for the implementation of the Bonded Labour Act and in carrying forward the mandate of the Honourable Supreme Court in this regard. One way of doing it is to compel the Chief Ministers rather than the Chief Secretaries to file affidavits of compliance on the implementation of the Supreme Court's mandate issued to the States in this regard.

19. The Group applied itself to a study of the law on bonded labour as it exists at present in terms of the Bonded Labour System (Abolition) Act, 1976 and the case law as expressed in the landmark

judgements of the Honourable Supreme Court in Bandhua Mukti Morcha v. the Union of India (1984) 3 SCC 161 and Neeraja Choudhary v. the State of Madhya Pradesh (1984) 3 SCC 243 and the Asiad Case, found that the sprit behind the law has been adequately set down in the Act as well as the judgements of the Supreme Court. Though the definition of "bonded labour" and the "bonded Labour system" are quite clear, essentially, because of a lack of focus on the part of the State Governments and Executive Magistrates, the implementation of the Act has suffered because of definitional problems. Consequently the work relating to the identification of bonded labour and therefore the subsequent steps like release and rehabilitation of bonded labour as also the prosecution of offenders has suffered. The Group, however, examined the provisions relating to the definition of "bonded labourer" and "bonded labour system" in the Act in relation to the wording of Article 23 of the Constitution. The Group felt that the intention of the Article is the prohibition of any form of and all kinds of forced labour and not only forced labour based on debt. This position needed to be articulated unambiguously in the Act. A bonded debt alone need not be the basis of bondage. Therefore, the Group felt that it is essential to clarify this position at the outset. The Group also recognised that the absence of a provision relating to release is a serious shortcoming in the Act which needed to be rectified.

20. The Group unanimously makes the following recommendations for favour of consideration by the NHRC and its onward transmission to the Honourable Supreme Court of India:

PART – III: RECOMMENDATIONS

A) Recommendations relating to Law.

1. Section 2 (f) should be amended to read "bonded labourer means a labourer who is forced to render labour or service under the bonded labour system". Section 2 (g) may be amended to read, "bonded labour system means the system of forced or partly forced labour or service under which a debtor or any person-" etc.,
2. Section 6 should be amended so as to include the extinguishments of every liability and every obligation under the bonded labour system including the liability to repay debt. This

amendment should find place wherever reference to bonded debt occurs in Sections 6, 7 and 9. In Section 6 (6) and (7) the words "or such other person" should be added after the word "creditor".3. In Section 7 the words "bonded debt" may be dropped in favour of "obligation under the bonded labour system including bonded debt."4. Section 8 may be amended to expand protection from eviction "from homestead etc.," to "any kind of land".

5. The Act provides in Section 9 that no creditor shall accept any payment against extinguished bonded debt and provides for punishment for contravention. While this is necessary, what is of equal and sometimes of greater importance is the protection that the erstwhile bonded labourer should get from the Government on release from bondage. Hence, the Act should specifically make a provision casting a responsibility on the Government to provide physical protection to the released bonded labourers from harassment in regard to repayment of bonded debt and other harmful incidental acts likely to result from the bonded labourers being provided freedom.

6. Section 11 of the Act makes mention of the duty of the District Magistrate and other officers to ensure credit and try to provide for the welfare of freed bonded labourers and secure and protect their economic interests so as to ensure they do not contract further bonded debt. Since the entire range of poverty eradication efforts based on the poor people's right to food, work, shelter, health, education and information with provision for easy access to consumption as well as productive credit are fundamental to the rehabilitation of the freed bonded labourers, the Act should specifically make a mention of convergent based poverty eradication efforts built around these rights with credit, gender sensitivity and children's rights as the touch stones. These efforts must find expression by way of State policy of the Government of India and the States towards freed bonded labourer with the implementation of such policy being the direct responsibility of the District Magistrate.

7. While Sections 11 and 12 of the Act speak of the duties mentioned at 6. above and of the duty of the District Magistrate to eradicate the bonded labour system within his jurisdiction, no liability is cast upon the District Magistrate for non-performance of those duties. The references that exist in the Act in Sections 19 and 20 do not seem to apply to neglect of duties by the public servants. Therefore, a

provision should be introduced specifically in the Act providing for punishment of District Magistrates and other public servants authorized by him, who wantonly and willfully neglect the identification or release or rehabilitation of bonded labourers within their jurisdiction. The precedent for this exists in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Act 33 of 1989 and the Protection of Civil Rights Act, 1955 - Act 22 of 1955. This punishment should take the form of a conviction leading to the imposition of a fine.

8. In Section 13 dealing with the Constitution of Vigilance Committees at the District and Sub-Divisional levels, it is provided that the Chairman of these Committees could respectively be either the District Magistrate and the Sub-Divisional Magistrate "or a person nominated by him". This Section should be amended so as to drop the words "or a person nominated by him" so that only the District Magistrate or the Sub-Divisional Magistrate can be the Chairperson of these Committees. Section 13 (2) (d) and 3 (d) provide for representation to "official or non official agencies" on the Committees. Such an alternative weighs against the need for non-official representation. It should, therefore, be amended to read "official and non-official agencies".

9. Section 14 lays down the functions of Vigilance Committees. A function that should be added to this section would be the creation of awareness among officials of the Government and employers of the provisions of the Act especially their duties and liabilities as also the protective and other benefits of the Act amongst the bonded labourers, released bonded labourers and the rural and urban poor in general.

10. Sections 16, 17 and 18 lay down the punishment for enforcement of bonded labour, for advancement of bonded debt and for extracting bonded labour under the bonded labour system. In each of these sections, the punishment is imprisonment for a term "which may extend to three years and also with a fine which may extend to two thousand rupees". This "may extend" concept by itself is not severe enough to deal with the obnoxious nature of these offences. Hence these sections should be amended to provide for a minimum punishment that serves as deterrent. A punishment of "imprisonment for a term which is not less than 6 months but which may extend to

five years and a fine of Rs.20,000" should replace the existing provisions in these sections. This would be in line with the concept adopted in the SCs and STs (Prevention of Atrocities) Act, 1989. Also the concept of enhanced penalty on subsequent conviction as provided for in the Protection of Civil Rights Act, 1955 should find place in the Act.

11. A provision should be made in the Act for the collection of an amount of Rs.20,000 from the employer of the bonded labourer so as to create a fund for the rehabilitation of the released bonded labourer. The section should clearly state that this would be an additionality to what should be provided by the Central and State Governments from their budgets for the rehabilitation of the released bonded labourers.

12. In Section 18, a further amendment should be included in regard to the payment to be made to the bonded labourer from the fine recovered by providing for four times the current minimum wage for each day applicable to the area in question as notified by the State Government

13. Under Section 21, the Executive Magistrates may be directly authorized to try the offences without a need for notifications to be issued by the State Government conferring powers on them. Also, the trial should be made mandatorily summary.

14. Under Section 22, every offence under the Act should be cognizable and non-bailable. Further, no anticipatory bail should be available for offences under this Act.

15. An appeal under this Act should lie only to High Court.

16. A new provision should be made in the Act for externment of non-tribals who commit an offence under the Act in any area included in Scheduled Areas or "tribal areas" as referred to in Article 244 of the Constitution. A precedent for this kind of measure exists in the S.C. and S.T. (Prevention of Atrocities) Act, 1989.

17. A Section providing for the responsibility and the duty that Non-Government Organizations and social activists in regard to the various provisions of the Act leading to the abolition of the bonded labour system should be incorporated in the Act. Also, a reference to

the duty and responsibility of the Government to provide due assistance to them should find place in the Act. It should be clear from the provision that the Government and the District Magistrates and other officers are bound to take note of every case of suspected bonded labour brought to their notice and set in motion the procedures as per the Act to investigate the correctness or otherwise of all such cases reported to them. In other words, even social organizations and individuals who are not nominated to Vigilance Committees would retain the right to identify bonded labour, recommend ways of rescue, release, rehabilitation and prosecution, and the District Magistrate would be bound to investigate and act under the provisions of the Act in the same way as though this was done by the members of the Vigilance Committee.

18. Section 14 of the Act provides for several functions to be discharged by the District and Sub-Divisional Vigilance Committees but not for the actual identification and steps connected with the release of bonded labourers. This should be provided for in Section 14. It should also be laid down in the Rules relating to the Vigilance Committees that they should meet once every three months without fail, the responsibility in this regard attaching to the District Magistrate and the Sub-Divisional Magistrate.

19. A provision should be incorporated in the Act making it mandatory for the District Magistrates to proceed with the relief and rehabilitation work by drawing funds from the District Treasury under Treasury Rule (TR 27).

20. A section providing for training of the Executive Magistrates, all officers functioning at the District Level, Non-Government Organizations in sensitizing, and implementing the various of the Act and in generating awareness of the case law on the subject as also the relevance of certain laws such as those relating to contract labour, migrant labour, minimum wages, equal wages, the SCs and STs (Prevention of the Atrocities) Act, 1989, the Protection of Civil Rights Act, 1955 etc., should find place in the Act.

B) Other Recommendations relating to release, relief and rehabilitation:

1. A clear responsibility should be placed on the Sarpanch and the Members of the Gram Panchayat, Intermediate Panchayat and Zilla

Panchayat in the implementation of the Bonded Labour System (Abolition) Act, 1976. It shall be obligatory on the part of a Gram Panchayat to report in such form and at such intervals as may be prescribed to the Deputy Commissioner or to any other authority specified by the Government in this behalf, any case of enforcement of bonded labour system in the Panchayat area, failing which it shall be construed as a default in the performance of duties imposed on it for the purpose of action to supercede or suspend the Gram Panchayat.

2. A provision should also be made in the columns of the ACR applicable to all public servants indicating an assessment of the officer's attitude, performance and achievement in regard to the abolition of the bonded labour system in his jurisdiction.

3. It is absolutely essential that there should exist no time gap between identification and release on the one hand and release and the start of the rehabilitation measures on the other. Identification, release and rehabilitation should be a continuum. Between identification and release, there should not be a gap of more than a few days, a week being the maximum. The relief amount should be paid to the released bonded labour on the day of his release. In order to ensure this and for the rehabilitation measures to start forthwith, funds calculated at the rate of Rs.20,000/- per bonded labour should be physically available at the District level instead of at present. It should be enjoined on the District Magistrates that they keep submitting the Utilization Certifications to the State and Central authorities for the amounts drawn and spent under the Centrally Sponsored Bonded Labour System Abolition Scheme.

4. In addition to the District Level and Sub-Divisional level Vigilance Committees, each State Government should constitute a State Level Standing Committee presided over by the Chief Secretary and have as its members all Secretaries connected with rural development, social welfare, social development, women and child development, poverty eradication, agriculture, industry, labour, education, labour, home, planning etc., the criterion for the composition of the Committee being the roles the various actors in the Government Departments have in the comprehensive and successful implementation of the provisions of the Bonded Labour System (Abolition) Act 1976 and other related

Acts. This Standing Committee should also include a few NGOs working in the areas of bonded labour and child labour.

5. It has been noticed at the field level that there is a dire need for training in the work relating to the implementation of the provisions of the Act and in the understanding of the relationships that exist between the Bonded Labour System (Abolition) Act 1976 and other related laws that the Inter-State Migrant Workmen (Resolution of Employment and Conditions of Service) Act 1979, the Minimum Wages Act 1948, the Child Labour (P&R) Act 1986, the Contract Labour (Resolution and Abolition) Act 1970, the Immoral Traffic (Prevention) Act 1956, the SCs and STs (POA) Act 1989 etc. This training where awareness of the provisions of these laws and the case law relating to them requires to be imparted is a felt need both for the officials of the Government and NGOs. The training needs include reorientation of attitude and gaining of expertise in identification methodologies, release procedures, prosecution techniques, poverty alleviation strategies, building of partnerships and techniques of organization. The Central and State Governments should provide for these training arrangements including the infrastructure required. It is important that the NHRC actively promotes the concept of development of the training facilities in the States both through Governmental and non-Governmental effort. Every member of the District and Sub-Divisional Vigilance Committees must necessarily undergo training as discussed in this paragraph.

C. AN ACTION PLAN FOR THE NHRC

1. The implementation of the BLA encompasses three essential functions, namely, identification, release and rehabilitation of bonded labourers. The task of monitoring entrusted to the NHRC by the Supreme Court requires the Commission's involvement in all these functions. Monitoring of the process of identification based on periodical surveys by the State administrations with the assistance of the NGOs would be the starting point of the exercise. However, before the Commission gets involved in this task, it has to see that the various State/UT Governments have completed the following mandatory measures under the BLA:

i) Specifying the authorities for implementing the provisions of the Act (Section-10).

ii) Constitution of Vigilance Committees in each district and each sub-division (Section 13).

iii) Authoring the Executive Magistrates to exercise the powers of a Judicial Magistrate of the First Class or of a Second Class for the trial of offences under the BLA (Section 21).

iv) Identifying the sensitive Districts and Industries where bonded labour system is being practised in one form or the other viewing the whole matter in the light of the clarifications issued by the Supreme Court regarding the definitional aspects of the Act.

However, to begin with, the Commission can concentrate its efforts on the 172 Districts in the 13 States already identified by the Union Labour Ministry. The Government of India, Ministry of Labour is funding the survey work in each of the 172 sensitive districts in these 13 States. A special grant of Rs.2 lakh for such survey to be conducted once in three years has been released for each district for the year 2000-01 and 2001-02. The NHRC should collect the details of the scheme and monitor the progress of these surveys devising a suitable system of reporting by the States/UTs.

2. The task of identification is complex and delicate. It calls for political honesty and therefore the will on the part of the political leadership and sensitivity, courage and commitment on the part of the civil service particularly the District Magistrate to carry forward this work. The Act provides for an institutional mechanism for identification of Bonded Labour with the help of the Vigilance Committees. These Vigilance Committees can play a very significant role in identification of the bonded labourers in their respective areas. The Commission has, therefore, to ensure that these Committees are constituted properly in accordance with the provisions of Section 13 of the Act so as to include non-official members and agencies selected on the basis of their experience, credibility and record of public service relevant to the problem of bonded labour. The Commission must evolve an institutional arrangement to oversee the working of these committees in terms of their meetings regularly and holding purposeful and result-oriented deliberations. Such an arrangement would emphasize the principle, inter alia, that proper identification of bonded

labour in any area/industry would require a thorough understanding and the inter-related nature of the provisions of a number of Labour Laws such as Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 (IMWA), the Minimum Wage Act 1948, the Child Labour (Prohibition and Regulation) Act 1986, the Contract Labour (Regulation and Abolition) Act 1970, the Immoral Tariff (Prevention) Act 1956, the SCs & STs (Prevention of Atrocities) Act 1989 etc., and the Bonded Labour Act.

3. The NHRC should spell out a suitable methodology to be followed in the identification process. The NHRC should evolve a protocol for identification of Bonded Labour and draw a broad checklist to be adopted by the various districts with suitable local modifications.

4. The Commission should undertake studies of inter-state migrant labourers such as those from Tamil Nadu to Haryana, Rajasthan and UP, from Orissa to Rajasthan and MP, from Bihar to Punjab and Haryana, etc. The release of migrant bonded labourers and their rehabilitation needs to be considered a special task.

5. The crucial role of NGOs in training needs should be promoted by the NHRC both through advocacy and also through sensitive financial support to the NGOs.

6. Rehabilitation of the released bonded labourers being the most crucial component for the fulfillment of the mandate of the Supreme Court, release and start of rehabilitation work have to be simultaneous. The Commission has to evolve an effective system of monitoring to see that the released bonded labourers are effectively rehabilitated in their native State or the host State as per their wishes. The State Governments, through their Chief Ministers, Chief Secretaries and District Magistrates have to be sensitized and motivated to ensure successful convergence of strategies and to accord priority preference to the released bonded labourers in allocating resources available under the anti-poverty programmes and other development schemes. The Commission should take up the advocacy of an Employment Guarantee Scheme (EGS) backed by a credible credit delivery system as the central strategy in the successful rehabilitation of released bonded labourers, implemented and meticulously monitored over a period of 4 to 5 years in each case of released bonded labourer. Rehabilitation strategies should be group-based through the

constitution of Self-Help Groups and cooperatives of the released bonded labourers. Monitoring by the Commission should take into consideration the following directions issued in regard to the released bonded labourers by the Supreme Court in their Order dated 13.5.1994:

i) Any existing debt or bonded liability of the released labourers is extinguished/discharged and they are provided alternative means of livelihood.

ii) The physical and economic rehabilitation must go side by side. The released bonded labourers should be considered for allotment of agricultural land, employment as agricultural workers at the prescribed minimum wages, allotment of houses under the IAY and imparting of training for acquiring new skills. Health care and education of their children should receive full attention.

iii) Rural credit facilities such as those from Grameen Banks and Cooperatives should be extended to the released bonded labourers to ensure that they do not relapse into the bonded labour system because of lack of availability of funds.

iv) Convergence of various Central and State sponsored schemes to achieve the best possible rehabilitation of the released bonded labourers. The Rehabilitation Grant (Rs.20,000 per head) from the Government of India should be released promptly so that these could be pooled to create organizations like Cooperative Societies and Self-Help Groups of the released bonded labourers.

7. The Group recommends that the NHRC should develop, with the help of the feedback gathered from various States and advice of experts, an Instruction Manual covering all aspects of identification, release and rehabilitation of bonded labourers for the guidance of the DMs.

8. The Commission should closely watch the progress of prosecution by directing all the State/UT Governments to furnish periodically in a standard format (to be prescribed by the Commission) all details pertaining to identification, release and rehabilitation of the bonded labourers and prosecution of offenders.

9. In its order dated 19.11.1996 the Supreme Court has directed all the States/UTs to carry out survey of the Bonded Labour in their respective area by the end of December 1996 and file affidavits by 13 January 1997. Records relating to the compliance of these directions were also transferred to the NHRC in November 1997. Shri S. Muralidhar, Sr. Advocate, Supreme Court was deputed by the Commission to study these records and submit a status report to the Commission. He has, in his report dated 14.5.1998, given state-wise status of filing of the affidavits. Affidavits filed by only four States, namely, Kerala, Madhya Pradesh, Tamil Nadu and Uttar Pradesh were found to have been comprehensive enough to enable the Commission to monitor follow-up action. 11 States and 8 UTs had not filed their affidavits till then. The affidavits filed by the remaining States were found to be lacking in many aspects. The Group recommends that the Commission may call the concerned authorities of the major States such as Andhra Padesh, Bihar, Karnataka, Madhya Pradesh, Orissa, Tamil Nadu, Rajasthan and Uttar Padesh for an in-depth review of the rehabilitation of the bonded labourers released as a result of the 1996 survey. The Commission should also address the Supreme Court and collect any further affidavits or other information submitted by the various States/UTs since November 1997.

10. The Group apprehends that a large number of District Magistrates and their gazetted Assistants are not fully aware of the various provisions of the BLA. They also lack the appropriate attitudinal orientation to discharge their obligations under the Act. The Group, therefore, considers that it is necessary for the NHRC to conduct jointly with the State Governments 2-day Workshops or Consultations for sensitizing and educating the District Magistrates, Superintendents of Police, representatives of the Banking system, NGOs and functionaries of the Panchayat at all the three levels about the constitutional and legal provisions as also rehabilitation strategies relating to the problem of bonded labour. To begin with such workshops should be arranged for the DMs of Punjab, Haryana and the Union Territory of Delhi. The format/content of the workshop should include (a) statutory provisions relating to bonded labour and case law including the judgements of the Supreme Court (b) the methodologies for identification of bonded labourers; (c) release, prosecution and rehabilitation and (d) measures for prevention of incidence of bonded labour. The Two Day Consultation organized

by the NHRC in Karnataka in October 2000 would serve as a good model for this purpose. The Commission should arrange preparation of a training module covering the salient features of BLA and related labour laws, important judgements of Supreme Court on the subject and some important petitions pertaining to bonded labour settled by the Commission.

11. The Commission should, with the help of its Special Rapporteur/ Representatives and State/UT Government authorities, identify the NGOs working in the field of bonded labour and draw a programme of action to encourage their efforts. They should be associated with the periodical discussion and interactions that the Commission would be holding with the State Government authorities. The Commission should also draw a panel of resource persons which should include individual social activists, workers from the NGO and the Voluntary sectors and retired and serving officers from the Central and State Governments.

12. The Ministry of Labour, Government of India has sanctioned a scheme for Awareness Generation in the 13 States identified as bonded labour-prone. The scheme involves designing scripts for plays. Nukad Nataks, street theatres, skits and other similar exercises to spread the message that existence of bonded labour system is a negation of human rights and an outrage against civilized existence. An annual grant of Rs.10 lakhs per State Government has been sanctioned for the years 2000/2001 and 2001-2002. The Commission should monitor this programme.

13. The NHRC should hold at least four regional conferences involving the officials of the Central as well as State Governments and reputed NGOs working in the field of bonded labour. The conferences will help in drawing area-wise Action Plans and constituting local monitoring groups comprising both the Government officials and the NGOs. Methodology for identification of bonded labourers, jointly by the Administration and the NGOs can be evolved through these consultations.

14. The Government of India has sanctioned evaluatory studies on bonded labour in the 13 States at district level to assess the impact of existing laws and the results of Poverty Eradication Programmes and financial assistance provided by various Government sources so far. These studies are to be conducted by reputed Research Organizations

/ Academic Institutions and NGOs working for the cause and welfare of unorganized labour. Each study is estimated to cost of Rs.1 lakh and five studies are to be conducted every year in each of the 13 States. This activity should be monitored by the NHRC.

15. The NHRC should set up a Special Cell at its office manned by a Desk Officer for dealing with Policy matters relating to the issue of bonded labour as a Human Rights issue (and not individual complaints). The Special Cell should work under a Special Rapporteur who may also hold the charge of child labour. The Group recommends that the Investigation Wing of the Commission should earmark 1 SP, 2 Dy. SPs and 5 Inspectors for taking up investigation of important bonded labour cases referred to the Commission, including those by its Special Rapporteurs.

16. The NHRC should constitute a Core Group on bonded labour that would help it in fulfilling the obligations arising from the directions of the Supreme Court. Besides some retired civil servants of genuine and relevant expertise and good reputation, some prominent activists having experience in the field of bonded labour could be included in this Group. The Group would advise and guide the Commission in matters such as preparing an Instruction Manual including in it a comprehensive check list for identification, release and rehabilitation of bonded labour, and framing training programmes and modules for sensitizing Government and civil society functionaries at various levels. Its advice can be sought by the Commission in devising a system of reports and returns to be obtained from the State/UT Government for reviewing the results of periodical surveys and follow-up action. The Core Group could meet quarterly or every six months to review the overall bonded labour situation in various States/UTs and the impact of the efforts of the Commission.

17. The NHRC should also intervene in the ILO Reporting System on the application of Labour Standards.

(Signed by the following:)

(S. R. Sankaran)
Chairman

(Swami Agnivesh) (K.B. Saxena) (K.R. Venugopal)

(Harsha Mander) (Chaman Lal) (Vivek Pandit)

6

A PERSPECTIVE PLAN TO ELIMINATE FORCED LABOUR IN INDIA

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July 2001

Foreword

In June 1998 the International Labour Conference adopted a Declaration on Fundamental Principles and Rights at Work and its Follow-up that obligates member States to respect, promote and realize freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation.[1] The *InFocus Programme on Promoting the Declaration* is responsible for the reporting processes and technical cooperation activities associated with the Declaration; and it carries out awareness-raising, advocacy and knowledge functions – of which this Working Paper is an example. Working Papers are meant to stimulate discussion of the questions covered by the Declaration. They express the views of the author, which are not necessarily those of the ILO.

Dr. L. Mishra, formerly a high-level official of the Government of India, dealt for a long time with questions of bonded forced labour, including through work he carried out for the Country's Supreme Court, which involved interviews with large numbers of bonded labourers working in brick kilns and quarries.[2] Shortly after he joined the ILO's Regional Office in Bangkok as Senior Advisor on Fundamental Principles and Rights at Work, I asked him to consider elaborating a long-term plan to spur the elimination of bonded forced labour in India. The following

Working Paper summarizes his basic proposals for what could and should be done over a period of ten years or so. His proposals being in the public domain, the Declaration Programme wishes them to be considered in many forums and specified with a view to implementation, if necessary with the help of external donor support, as well as to serve as inspiration for the countries faced with significant pockets of bonded labour.

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1. For the text of the Declaration, please visit our website at http://www.ilo.org/public/english/standards/ decl/declaration/ text/index.htm
2. A summary of his concern with workers tied down by debts has appeared in L. Mishra, *Burden of bondage* (New Delhi, Manak Publications, 1997).

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ABBREVIATIONS

AIDS – Acquired immune deficiency syndrome
AIMO – All India Manufacturers' Organization
AP – Andhra Pradesh
AIOE – All India Organization of Employers
AITUC – All India Trade Union Congress
ASSOCHAM – Association of Chambers of Manufacturers
BLLF – Bonded Labour Liberation Front
BMS – Bharatiya Mazdoor Sangh
CD – Community development
CEO – Chief executive officer
CII – Confederation of Indian Industry
CTA – Chief technical adviser
CITU – Centre of Indian Trade Unions
CTUOs – Central Trade Union Organizations
CM – Chief Minister
DM – District magistrate
DG – Director-General
DWCRA – Development of women and children in rural areas
DPEP – District Primary Education Programme
EFI – Employers' Federation of India
FICCI – Federation of Indian Chambers of Industry of Commerce
FASSI – Federation of Small Scale Industries of India
GDP – Gross domestic product
GB – Governing Body
GP – Gram Panchayat

GJ – Gujarat

GPF – Gandhi Peace Foundation

HIV – Human immune deficiency virus

HMS – Hind Mazdoor Sabha

ICDS – Integrated Child Development Service

ILO – International Labour Organization

ILC – International Labour Conference

INTUC – Indian National Trade Union Congress

IAS – Indian Administrative Service

IIPA – Indian Institute of Public Administration

IPEC – International Programme for Elimination of Child Labour

IPC – Indian Penal Code

IRDP – Integrated Rural Development Programme

ITI – Industrial Training Institute

ITDA – Integrated Tribal Development Agency

ITPA – Immoral Trafficking (Prevention) Act

JMFC – Judicial Magistrate, First Class

LBSNAA – Lal Bahadur Shastri National Academy of Administration

MCI – Microcredit Institution

MOL – Ministry of Labour

MHA – Ministry of Home Affairs

MP – Madhya Pradesh

MP – Member of Parliament

MYRADA – Mysore Resettlement Development Agency

NGO – Non-governmental organization

NABARD – National Bank for Agriculture and Rural Development

NACO – National AIDs Control Organization

NHRC – National Human Rights Commission

NFE – Non-formal education

NLI – National Labour Institute
NPE – National Policy of Education
NNP – Net National Product
NSSO – National Sample Survey Organization
OBC – Other backward caste
PD – Project Director
PEA – Programme Evaluation Organization
PM – Prime Minister
POA – Pragramme of Action
PRIs – Panchayatiraj Institutions
RJ – Rajsthan
RMK – Rastriya Mahila Kosh
SCOPE – Standing Conference on Public Enterprises
SC – Scheduled caste
SC – Supreme Court
SDM – Subdivisional Magistrate
SIDBI – Small Industries Development Bank of India
SHG – Self-help group
SNVF – Stree Niketan Vanitha Foundation
SP – Superintendent of Police
ST – Scheduled Tribe
TDMS – Tejpur District Mahila Samithi
TGBK – Tajmahal Gram Bikash Kendra
TRYSEM – Training of rural youth for self-employment
TN – Tamilnadu
UP – Uttar Pradesh
UT – Union territory
UN – United Nations
u/s – under section

1. Profile of India and its people

India has one of the oldest civilizations in the world with a kaleidoscopic variety and rich cultural heritage. It has achieved multifaceted socio-economic progress during the last 54 years after its independence on 15 August 1947. It is now the tenth industrialized country in the world; it is also the sixth nation to have gone into outer space to conquer nature for the benefit of humanity. With over 200 million tons of food grains production to its credit, it has become self-sufficient in food. With a geographical area of 3,287,263 m2, it is the seventh largest country in the world. India's population according to the enumeration for the 2001 decennial census was of the order of 1,027 million. India has 28 states and seven union territories. Three new states which have been carved out and notified with effect from 1 November 2000, and which have a long history of debt bondage, are the Uttarakhand, the Chattisgarh and the Jharkhand, with capitals at Dehradun, Raipur and Ranchi respectively.

The average rate of literacy according to the 1991 census was 52 per cent (64 for men and 39 for women). According to the latest findings of the 2001 census, the literacy rate has gone up substantially (75 per cent for men and 55 per cent for women). This Improvement notwithstanding, there are wide regional and state variations: between urban and rural areas, between males and females, between members of SC, ST and OBCs.

The Constitution lays down certain Directive Principles of State Policy, which though not justiciable, are fundamental to the governance of the country. It is the duty of the State to apply these principles in making laws since they establish that the State shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which social, economic and political justice shall inform all institutions of national life. The State shall direct its policy in such a manner as to secure the rights of all men and women to an adequate means of livelihood, equal work and, within the limits of its economic capacity and development, to make effective provision for securing the right to work, to education and to public assistance in the event of unemployment, old age, sickness and disablement or other cases of undeserved want.

Planning in India derives its objectives and social premises from the Directive Principles of State Policy enshrined in the Constitution. The First Five-Year Plan was launched in 1951. Eight Five-Year Plans have completed their life cycle. The life of the Ninth Five-Year Plan (1997-2002) will come to an end on 31 March 2002.

In the 50 years since India became a republic, the national income has increased by 6.6 per cent and the per capita income has increased 2.9 times.

Agriculture and allied activities make the single largest contribution to the GDP accounting for almost 27 per cent of the total. The sector provides employment to around 65 per cent of the total workforce and contributes 21 per cent of the total export.

The industrial policy initiatives undertaken by the Government since July 1991 (when the New Economic Policy characterized by liberalization, privatization and globalization was launched) are designed to accelerate the process of making Indian industry globally competitive. The thrust of this initiative has been to increase the pace of domestic and external competition through extensive application of market mechanisms and forging of dynamic relationships with foreign investors and suppliers of technology.

The National Policy of Education (NPE), 1986, and its programme of Action (POA), as reviewed and amended in 1992, envisage that free and compulsory education of satisfactory quality should be provided to all children up to the age of 14 years before the dawn of the twenty-first century. Universal access, universal retention, universal participation and universal achievements of the minimum levels of learning constitute the core target for the Ninth Five- Year Plan.

Pursuant to the enactment of the 78th Constitutional Amendment Act, 1992, almost all states/UTs have made necessary amendments in their Acts enabling legislation for setting up strong, viable and responsible local self-governing bodies at different levels.

Article 243 (G) of the 73rd Constitutional Amendment Act endows the PRIs with the requisite financial and administrative powers to enable them to function as effective institutions of local self-government. It also envisages for the PRIs the responsibility for the preparation and implementation of plans for economic development and social justice in relation to 29 subjects (primary education, primary health care, etc.) as listed in the 11th Schedule of the Constitution.

Over the last two decades, a planned, structured and concerted has been launched for the eradication of both rural and urban poverty. All self-employment and allied programmes have now been brought under the umbrella of one single self-employment programme for the rural poor. This is a holistic programme of micro-enterprises covering all aspects of self-employment, i.e. organization of rural poor into self-help groups, their capacity-building through skill training, planning of activity clusters, infrastructure build-up, credit and monitoring. A significant aspect of the new programme is that every family assisted under it will be brought above the poverty line in three years. Thirty per cent of the rural poor in each CD block will be covered in the next five years.

In addition to the constitutional safeguards and special protection provided by the National Commission for SC and ST, a series of measures with relevance to the elimination of debt bondage have been launched in order to ensure protection of the urban and rural poor, who are the most vulnerable to social discrimination and economic exploitation. These measures are intended to ensure access to free, compulsory and universal primary education to the children of members of SC and ST, vocational skill training, easy access to credit through banks and other non-traditional channels, and involvement of voluntary agencies/NGOs in preventing atrocities against members of the weaker sections of society.

A separate statutory body for protecting and safeguarding the interests and rights of women known as the National Commission for Women has been in existence for almost ten years along with a National Credit Fund for women to meet the credit needs of poor women.

Women and child development has constituted a priority programme for successive Governments. The programme for integrated child development services launched in 1975 constitutes, in terms of coverage, the single largest programme undertaken by any country in the entire world.

The Government has listed 70 occupations and processes in which children are prohibited to work with a view to eliminating child labour in hazardous work. It is also in the process of launching a massive countrywide campaign for the universal elimination of child labour. It has further ratified the Convention on the Rights of Children (CRC) and ILO Conventions No29 and No.105 on forced labour, as well as six out of 20 Conventions on the elimination of child labour.

The Apex Court (Supreme Court of India) has adopted a proactive approach throughout towards elimination of bonded labour and child labour. The NHRC has been in existence for a decade and is responsible for promoting, protecting and preserving human rights for all sections of society, including those of the working class. The Apex Court has entrusted the responsibility of overseeing the implementation of provisions of the Bonded Labour System (Abolition) Act, 1976, to the NHRC for quite some time.

2. Historical background

The problem of debt bondage in India is linked to the phenomenon of poverty, which is closely linked to the absence of land assets. There is a strong communality between the community of rural poor and victims of debt bondage, in as much as an overwhelming percentage of these belong to the category of landless agricultural labourers, a majority of whom also belong to the community of SC and ST.

The *Zamindary* system, introduced by the erstwhile colonial rulers with all the ills of rack-renting, absentee landlordism and oppressive treatment to millions of tenants, was abolished after remaining on the ground for 200 years. However, the scars are still visible in the shape of at least 50 million landless agricultural labourers. The skewed distribution of land and other assets is accentuated by excessive seasonality of employment in agriculture and the absence of stable and durable avenues of non-agricultural employment, leading the seasonal migration. It is further accentuated by the denial of remunerative wages for the tillers of the soil who have to take recourse to loan/debt/advance in distress situations, leading to indebtedness and bondage.

The pernicious system of debt bondage evolved at different points of history in different parts of the country. Different laws were also enacted at the provincial level more to regulate than to abolish the system, culminating in the Bonded Labour System Abolition Act passed by both Houses of Parliament on 9 February 1976.

In Andhra Pradesh the system was the direct outcome of several categories of landlessness involving various economically exploited sections of society. The system known by different names such as *Vetti* (debt slavery) *bhagola, chakri/jeetham,* etc., originated from the uneven social structure characterized by feudal and semi-feudal conditions found in the Telangana region.

The erstwhile Government of Nizam (up to 1949) had taken steps to eradicate the pernicious bonded labour system known as *bhagola* in the old Hyderabad state and had passed the Hyderabad Bhagola Agreement Act, 1943.

The Act, however, suffered in terms of implementation due to pervasive ignorance, illiteracy and social backwardness of *bhagolas*. It is tragic but nevertheless true that bondage was not perceived as a loss of personal freedom but regarded as a necessary and inevitable consequence of one's rank and status in the society.

In Bihar, where the system is known as *kanua* and *sevakias* in Palamau, *kamiauti* in Santhal Parganas, *harwahi* in Bhagalpur, *kandh* in Deoghar, *bhaoti* in Godda and *krishari* in Dumka, the origin of debt bandage can be traced to the caste hierarchy and feudal structure in the village community. The system was characterized by the debtor working for the creditor for long hours, low wages, oppressive treatment and the obligations of the father being passed on to the son.

The Bihar and Orissa Kamiauti Act of 1920 declared that all such *kamiauti* agreements were void, with some riders, but did not prove effective in doing away with these social ills. Even today the landless agricultural labourers belonging to lower castes in Bihar continue to be exploited by the higher castes due to loans advanced to them at usurious rates of interest.

In Karnataka, the system is known as *jeetha*, which is a corrupt form of *Jeevitha*, meaning lifetime. In other words, the persons rendering service under this system are bonded for life. The bonded labour system is in the form of attached labour and is widely prevalent among the members of the SC community on a hereditary and obligatory basis.

The existence of the system has been confirmed by the reports of the Commissioner for SC and ST between the 1960s and 1970s. The state government promulgated an ordinance on 20 October 1975, five days before the President of India promulgated a similar ordinance. By May 1976, in Karnataka 22,821 bonded labourers were freed and rehabilitated.

In Madhya Pradesh, the system is known as *kamia* or *saorija* in Chattisgah, *harwah* in Betul, *brondia, kamdar* and *mahidar* in Nimar Tract, *mahindari hali* in Morena, *barasia* and *kabarani* in Balaghat, and harwahi in Vindhya region.

The hallmarks of the *kamia* system or *harwah* system found in parts of Madhy Pradesh are:

- agreement between the tenure holder and the ploughman;
- the ploughman obtains an interest free advance;
- the ploughman renders services on nominal wages until the money obtained in advance is fully repaid;
- the ploughman loses the freedom to work for others.

The report of the Commissioner for SC and ST in the 1960s and 1970s had confirmed that the system is still prevalent in the districts of Ratlam, Jhabua and Maundsar. The Government of Madhya Pradesh promulgated and ordinance on 25 September 1975 prohibiting the bonded labour system, which came into force 2 October 1975. By May 1976, in Madhya Pradesh 243 bonded labourers were freed and rehabilitated.

In Orissa, the system of bonded labour known as *gothi*, found in the districts of Koraput, Kalahandi and Ganjam, had the following characteristics:

- landless tribal groups seek credit without any collateral to meet expenses on marriage, funeral, procuring cattle and other implements or for paying off bad debts;

- there is an oral agreement between the creditor and the debtor for an unspecified period;

- a pronote is drawn up to cover the debt without any mention of the corresponding agreement.

The *bahabandh* (bonded slavery) and *bethi* and *begar* (forced labour) were abolished in 1921 and 1923, respectively, followed by the enactment of the Orissa Debt Bondage Abolition Regulation, 1948, which declared all *gothi* agreements void with some riders. Consequently, several thousand of *gothi* contracts were terminated. By no means, however, is *gothi* a thing of the past. This has been confirmed by the annual reports of the Commissioner, SC and ST, submitted to the Government for successive years.

Debt bondage in Rajasthan is known as the *sagri* system, one of the most hideous manifestations of usury with its attendant elements of oppression and exploitation. The origin of the system can be traced to the *bhil* tribes of Rajasthan seeking loan/debt/advance from crafty moneylenders for social ceremonies like marriage, remarriage and festivities associated with birth and death. There are two types of agreements entered into between the *sagri* (debtor) and the creditor, both being totally disadvantageous to the former. Even after mortgaging the services of all family members, the principal amount could never be repaid. The *sagri* had to take recourse to distress sales of land, animals, ornaments and agricultural produce and the bondage perpetuated itself, in some cases ranging between one and 20 years and in a few cases above 20 years. This system was abolished in 1961 by the Rajasthan Sagri System Abolition Act, which was further amended in 1975. Despite provisions of the law, the system is still alive, though with a different name, the *hali* system. The *hali* system is a variant of the attached agricultural labour system.

In Uttar Pradesh, the system was known by different names such as *begar, bandhwa mazdoor, bandhak, bajgee, sevak, harwah* etc., and was prevalent in agriculture, stone quarries, brick kilns, matchbox and fireworks factories, bidi, brassware, glass bangle and carpet manufacturing industries. This system is found in the Patha region of Banda and Allahabad districts, hill districts (Dehradun, Tehri Garwal and Uttarkashi) and the carpet belt of Bhadoi, Varanasi, Marzipan and Sonbhadra. In the first, several landless families belonging to *Kol* tribes render bonded labour services. In the second, the landless and totally illiterate semi-tribal members borrow money from the *Rajput* or *Brahmin* moneylenders and pledge their services until the loan is paid off. The problem of rural indebtedness and debt bondage is closely linked to the problem of immoral trafficking of women in the area.

Poor families of dry and drought prone Palamau and Gadwa districts of Bihar, migrate to adjoining Bhadoi, Varanasi and Mirzapur districts to work in carpet-weaving. Children of 6-14 years of age accompany the parents and work with them in the same occupation, often in bonded conditions. They are recruited by agents against the provisions of the Children (Pledging of Labour) Act, 1993. More children also work under similar conditions in glass and bangle –making units of Firozabad, brassware units of Moradabad, lock-making units of Aligarh, pottery units of Khurja and large number of brick kilns operating in the Indo-Gangetic plane.

In Tamilnadu, bonded labour has been identified in ten out of 29 districts. The majority of Bonded labourers belong to the community of SC and ST. They are known by different names such as *izvas, cherumas, pulayas, panias and holigas*. The system has the following characteristics:

- a written agreement;
- the debtor receiving less than minimum wages;
- the debtor having the obligation to work for the master and no freedom to act for others even at higher wages.

Yet, another vestige of the pernicious system is found among the hill tribes of Kalarayan where the *Karalar* tribes are bonded to the *jagirdars* for life. They and their family members work in the houses and farms of the *jagirdars* without any wages and are compelled to sell the forest produce to traders and contractors nominated by the *jagirdars* at low prices.

While the above narration about prevalence of bonded labour system is confined to only eight states, it does not necessarily follow that the other 20 states and union territories are completely free of the social scourge of bonded labour. All that it means is that: (a) the bonded labour system has not been specifically surveyed; (b) wherever surveyed, it has not surfaced; and (c) wherever there is evidence of the system, it relates to migrant populations who come and go from one part of the territory of India to another. These migrant workers who work under conditions similar to the bonded labour system have been found in fish-processing units of Gujarat, stone quarries of Haryana and brick kilns of Punjab. Whenever and wherever these workers have surfaced, and both the originating and destination states have been aware of and sensitive to the existence of the problem, they have been released and repatriated to their native states. This does not mean that all migrant labourers working under bonded conditions have been identified, released and repatriated for rehabilitation. According to the conclusions of a fact-finding committee constituted by an NGO, there are large numbers of interstate migrant labourers working in agriculture and brick kilns in Punjab who are under debt and bonded to their employers / masters. They are unable to repay the debt and, therefore, continue to be bonded. The Government of Punjab is yet to formally acknowledge existence of debt bondage in that state. The Government of Arunachal Pradesh has acknowledged the existence of 3,542 bonded labourers (called *sullungs*) who are working under slave-like conditions, but has regretted its inability to attain their immediate release. This *sullung* system is deeply rooted in the customary practices of this tribal society. According to Sramajeevi Sangathan, an NGO in Thane, which has been actively involved in the identification, release and rehabilitation of bonded labourers in Maharastra for over ten years, the practice of the landlord advancing loans to tribesmen for marriage and binding the tribal couple to serve him for life is widely prevalent in the Thane district. Under yet another system known as *palemod* the tribesmen take loans from the landlord before the onset of the monsoon with the understanding that these would be immediately paid after the harvest. Unfortunately, this is seldom the case due to the high rate of interest placed on the debt, resulting in the tribal family mortgaging its services to the landlord for life.

Tracing the origin of the bonded labour system or debt bondage provides a glance into history, it also provides a useful starting point to investigate and research in order to formulate and implement a proper plan for further intensive action for the identification, release and rehabilitation of bonded labourers. To that extent, knowledge and understanding of the historical background of the various forms of debt bondage becomes an essential ingredient of the perspective planning for the elimination of forced / bonded labour in India.

3. Constitutional and legal provisions with special reference to case laws

The Constitution if India guarantees to all its citizens justice, social and economic security, and political freedom of thought, expression, belief, faith and worship, equality of status and of opportunity, fraternity, dignify of the individual and unity of the nation.

It prohibits forced/bonded labour (article 23). There are several other provisions in the Constitution, which are in consonance with the spirit of article 23. These are: article 19 (right to freedom), article 21 (protection of life and personal liberty), article 24 (prohibition of employment of children in factories, mines and other forms of hazardous work), article 38 (the State to secure a social order for the promotion of the welfare of the people).

The Government of India ratified ILO Convention No. 29 on 30 November 1954, and enacted the Bonded Labour System (Abolition) Act passed by both Houses of Parliament in February 1976, with effect from 25 October 1975, the day on which the President of India promulgated an ordinance on the subject. The subject of elimination of forced/bonded labour figured as item No. 4 in a 20-point economic programme announced by the then PM to the nation in 1 July 1975, which read, "bonded labour system wherever it exists shall be declared illegal". Enactment of a central law dealt a lethal blow to the century-old pernicious system found in different forms in different parts of the country and brought it under the umbrella of one legal framework with clarity, uniformity and precision.

For the purpose of this analysis, the law can be divided under the following heads:

- definitions;
- abolition of bonded labour system;
- extinguishing liability to repaying bonded debt;
- implementing authority;
- penal provisions.

Labour means service. A bonded labourer is one who renders service to another person on account of certain obligations emanating from loan/debt/advance obtained from that person. The system essentially represents the relationship between a creditor and a debtor. When such a relationship exists and the debtor in pursuance of the obligation arising out of loan/debt/advance mortgages his services or the services of any of his family members to the creditor for a specified or for an unspecified period with any of the following consequences, he/she comes within the definition of the bonded labour system.

The consequences that arise from a loan which is advanced are:

- service without wages or without minimum wage;
- denial of the freedom of employment or other means of livelihood;
- denial of the right to move freely as a citizen in any part of the territory of India;
- denial of the right to appropriate or sell at market value any property or product of labour or of the labour of family members or dependents.

In April 1985, an explanation was added by way of an amendment to the Act. According to this explanation, a person who is initially a contract or migrant worker might subsequently acquire the status of a bonded labourer if he/she fulfils any of the four elements of the bonded labour system mentioned above.

Justice Sri P.N. Bhagawati of the Supreme Court of India, in a judgment dated 16 December 1983, arising out of a writ petition No. 2135 of February 1982 and filed by Bandhua Mukti Morcha, gave a broad, liberal and expansive interpretation of the definition of the bonded labour system, which can be summed up in the following words:

- it is not necessary to prove beyond doubt the element of loan/debt/advance in a creditor/debtor relationship;
- if the debtor is rendering certain services to the creditor free of cost, it is to be presumed that he/she is doing it out of some economic consideration;
- he/she, therefore, is a bonded labourer entitled to the benefits of law.

There are four essential provisions regarding the abolition of the bonded labour system:

- on the commencement of the Act, the bonded labour system stands abolished and every bonded labourer stands freed and discharged from any obligation;

- after the commencement of the Act, no person shall make any advance under or in pursuance of the bonded labour system;
- no person shall compel any person to render any bonded labour (service);
- any custom or tradition or any contract by virtue of which any person is required to do any work shall be illegal.

The Act does away with every obligation of a bonded labourer to repay any bonded debt; it also dispenses with the future liability of repaying a bonded debt. The law provides that: (a) no suit or other proceedings shall be instituted in any Civil Court for the recovery of any bonded debt; (b) every attachment made before the commencement of the Act for the recovery of any bonded debt shall stand vacated; and (c) movable property shall be restored to the bonded labourer.

The district and subdivisional magistrates have been entrusted with certain duties and responsibilities towards the implementation of statutory provisions. Under section 13 of the Act, vigilance committees are required to be constituted at the district and subdivisional level for the implementation of provisions of the law. They are composite bodies with representatives from different cross sections of society and have a lifetime of two years.

Registers containing the names and addresses of all freed bonded labourers, their vacation, occupation, income and details of benefits received are required to be maintained under the Bonded Labour System (Abolition) Rules.

The Act provides for imprisonment of up to three years and fines of up to Rs. 2000, to whoever compels any person to render any bonded labour and whoever advances any bonded debt. An offence under the Act may be tried summarily and every offence under the Act shall be cognizable and bailable.

4. Present status of implementation

Within two years of enactment of this law, a survey was jointly conduced by the Gandhi Peace Foundation and the National Labour Institute, the findings of which were published in May 1981. The survey came to an estimate of 2.6 million bonded labourers in 11 major states of India.

A centrally sponsored scheme was introduced in May 1978 for rehabilitation of freed bonded labourers. The programme of rehabilitation was itself a focal point of the 20-point programme of successive governments for over 20 years.

Despite all of these progressive measures, the urgency and seriousness of concern with which the issue of elimination of forced/ bonded labour deserves to be viewed seems to have progressively declined over the years. The reasons for this are:

- vigilance committees for many districts and subdivisions have not been constituted and reconstituted wherever due, and are largely non-functional wherever constituted. This has attracted adverse notice of the Apex Court and that of the NHRC;
- the Act and Rules do not give guidelines on the methodology for conducting surveys for the identification of the bonded labour system;
- over the years a very formal, stereotyped and routinized approach has been adopted in identifying the bonded labour system;
- an equally formal, rigid and highly legalistic approach has been followed while trying the cases under the Act as also at the time of releasing bonded labourers;
- there is always a long interregnum between the date of identification and date of release on the one hand, and the date of release and date of rehabilitation on the other. This results in a relapse of many freed bonded labourers into bondage;
- as of 31 March 2000, 280,411 bonded labourers have been identified and released; 251,569 bonded labourers have been rehabilitated; and 28,842 are still to be rehabilitated. In view of the long waiting period and on account of non-maintenance of registers as required under the Rules, it is not known how many labourers out of the 28,842 are still actually available on the ground for rehabilitation;
- there is a mindset that, with the enactment of the law, the bonded labour system has been abolished lock, stock and barrel and that there is no possibility of recurrence of

> the system. Labouring under this mindset, many state governments assume, without even setting up vigilance committees, that there are no bonded labourers in their states. They have not taken any in itiative to conduct fresh surveys for identification of the bonded labour system and have not made any budget provision for rehabilitation of released bonded labourers.

Such mindsets have contributed to defeat the very objective of the law as well as the national policy and programme.

The mindsets notwithstanding, the Apex Court and the NHRC have played a very firm and decisive role in: (a) issuing positive directions to the state governments for strict compliance; (b) entrusting the NHRC with the responsibility for overseeing the implementation of the directions of the Apex Court; (c) appointing social-legal investigating commissioners which have played a key role in unearthing the problem and in submitting their reports to the Court; (d) the chairperson of NHRC has written to the chief ministers of defaulting states impressing on them the urgency and seriousness of concern with which the problem deserves to be viewed.

5. Why a perspective plan?

A perspective plan is essentially a vision that at a particular point of time in history focuses on the magnitude of a problem in a particular area, sector or activity. It analyses objectively and dispassionately the causes and factors that have contributed to the problem, the adequacy and effectiveness of interventions, the results achieved and the gap between the expected outcome and actual outcome. It outlines a proper strategy and disaggregates the target to be handled at a particular level keeping in view the availability of resources – human, material and financial.

It is absolutely necessary and desirable that the strategy envisioned in the perspective plan lists the order of priorities clearly and categorically. In the context of formulation of a perspective plan for the elimination of forced/bonded labour, such an order of priorities can be competently listed in a logical and time sequence, as follows:

- the task of rehabilitation of X number of freed bonded labourers who are awaiting rehabilitation for a long period of time;

- disposal of all pending cases at the level of executive magistrates (vested with judicial powers) by taking recource to summary trial and issue of release certificate in favour of those who have been found to have been bonded;
- complete documentation of all bonded labourers identified and released, as well as of those who have been fully rehabilitated (name, age, sex, details of occupation, remuneration/income);
- a massive programme of orientation and training for the sensitization of functionaries at all levels, including chairpersons and members of vigilance committees at the district and subdivisional level.
- devising ways and means for the identification and enumeration of bonded labourers through surveys and any other means such as collection, compilation and analysis of the findings of the survey and through building up of a computerized database for further follow up action;
- proceeding against the bonded labour keepers in separate proceedings and in accordance with the procedure established by law while proceeding simultaneously to rehabilitate all freed bonded labourers.

In view of their urgency and importance, some of these activities may be independently pursued while some may be combined and taken up simultaneously. Bonded labour, however, is not a one-time problem, it is open-ended . It can occur and recur at any point of time in a number of occupations such as agriculture, brick kilns, stone quarries, etc. All possible efforts will, therefore, have to be undertaken to prevent the occurrence or recurrence of the problem in a particular industry, occupation, trade etc.

These would involve a series of further activities to be taken up in the foreseeable future such as:

- access to microcredit;
- access to avenues of full, freely chosen and productive employment (decent work);
- access to education and skill training;
- implementation of land reforms;

- review of laws relating to credit;
- revamping / strengthening the public distribution system;
- strengthening and activating the machinery for airing and redressing the grievances of the aggrieved;
- strengthening and activating vigilance committees;
- strengthening and activating labour law enforcement machinery (laws relating to contract labour, migrant labour, child labour, etc.).

The strategy as envisaged here would necessarily involve intensive monitoring of the pace and progress of implementation (of the plan) and evaluation of the content, process and impact of implementation with a view to ascertaining the gaps between expected and actual outcome, and applying timely corrections until the expected outcome is fully achieved.

6. Components of the perspective plan

6.1. Priority No.1: rehabilitation of released bonded labourers

Past experience has shown that freedom from bondage is meaningful only when the uncertainty and insecurity associated with that freedom have been removed through productive and income-generating schemes. If this is not achieved, the freed bonded labourer will always prefer to go back to his old master and the bonds associated therewith.

There are three distinct phases of rehabilitation:

(i) immediate physical and economic rehabilitation (necessitating payment of subsistence allowances);

(ii) provision of some avenues of employment (through manual labour), payment of need-based minimum wages and supply of productive assets to help start a new life;

(iii) a number of social and economic programmes, including formation of workers' organizations (indigenous self-help groups/thrift and credit groups, associations, cooperatives, trade unions etc.).

In order to be meaningful rehabilitation programmes have to be multidimensional and should cover a wide range of items such as:

- allotment of homestead and agricultural land;
- land development (through provision of irrigation, integrated watershed planning, development and management);
- provision of low cost dwelling units;
- provision of all inputs and back up services under:
  - *agriculture (including horticulture);
  - *animal husbandry;
  - *dairy;
  - *poultry;
  - *piggery;
  - *fodder cultivation;
- facilitating easy access to credit for meeting ceremonial, consumption and development needs;
- training for acquiring new skills and refining, sharpening and updating existing skills;
- health and medical care (including immunization of pregnant mothers and children in the 0-3 age group);
- supply of essential commodities at controlled prices in an uninterrupted manner;
- providing basic education to children of bonded labourers;
- protection of civil rights.

With a view to augmenting the scale of per capita expenditure (Rs.20,000 INR) to take care of so many provisions, resources will have to be pooled from a variety of sources and integrated imaginatively and skilfully to achieve the objective of holistic and integrated rehabilitation.

Individual beneficiary-oriented approach to rehabilitation has a number of limitations that arise from the peculiar caste–based social background of the beneficiary, his or her poverty and backwardness and the culture of silence and dependence associated with the milieu in which he/she has lived. In contrast to this, rehabilitation as a group or community effort has many distinct advantages. By bringing people with a different socio-cultural background and rehabilitating them at one common point, one would be promoting social integration. Social integration and social solidarity would pave the way for stronger social protection. Group rehabilitation at a common point would facilitate convergence of a number of functionaries of development departments, government and NGOs; it would make the task of integrated development easier. It would facilitate easier access to credit for development. In a group approach to development, the economies of scale of the operations would be ensured.

A group approach to development/rehabilitation should be adopted as far as possible and practicable as it enables the delivery system to ensure the provision of adequate infrastructure facilities, to integrate a number of activities as well as optimizing the return on the investment made for the benefit of free bonded labourers.

6.2. Priority No.II: Disposal of all pending cases at the level of executive magistrates

The state government u/s 21 of the Act is authorized to confer upon specified executive magistrates the powers of judicial magistrates of first class for trial of offences under the Act. It was, however, observed that hitherto a formal, rigid and legalistic approach has been followed while releasing bonded labourers. Every case of release is taken up by a formal process of trial by the executive magistrate appointed by the state government. A conventional process of trial by recording of evidence under the Indian Evidence Act, 1872, is a long drawn process. It can only add to the further predicament of the bonded labourers since they can never stand up to the tyranny of the law and rigidity of the legal process. The only way out of this impasse would be the adoption of a summary trial procedure immediately on receipt of a report from the vigilance committee(s)' concerned investigating agency(s) in order for identification and release to be simultaneous. This is the only practical solution to the problem of securing faster release. The administrative department in every state/UT concerned may, in consultation with the Law Department and Registrar High Court, issue a set of guidelines for summary trial and summary disposal of all cases instituted under the Act. Such guidelines should be framed and communicated to all trying magistrates, keeping the interest of defending the bonded labourers uppermost in mind and in conformity with the spirit of the judgment of the Supreme Court of India dated 16 December 1983 (arising out of the writ petition No.2135 of 1982).

Issue of guidelines should be supplemental by a programme of orientation and training of executive magistrates appointed by the state government to try all cases under the Act. There are 593 districts in India and for each district at least one magistrate should have been appointed for trial of offences under the Act. All these magistrates who have been vested with judicial powers should be given orientation and training.

Simulated trials involving the bonded labour keeper and bonded labourers should be organized as part of such orientation and training in order to enable the trying magistrates to internalize, with all the seriousness of concern, the importance of summary trial as a very useful and effective tool of delivering instant justice to a person (a bonded labourer) who is not used to stand up in a witness box and depose evidence right in the presence of his oppressor. Since a number of final points of law are involved, such orientation and holding of simulated trials as a part of such training should be conducted by retired judges of High Court/District and Sessions Court/members of superior judicial service to be identified on the basis of their empathy and sensitivity to the cause of liberation of bonded labourers.

6.3. Priority No.III: Complete documentation of identified bonded labourers

Such documentation is a primary statutory requirement (Rule 7 of Bonded Labour System (Abolition) Rules, 1976). The primary purpose behind such documentation is to keep a close and constant vigil on the status of freed bonded labourers who are waiting to undergo the process of rehabilitation or who are already undergoing such a process. The need for such documentation is all the more relevant and urgent in case of migrant workers, some of whom may have been working under conditions akin to debt bondage. It is not enough to identify them as bonded labourers and release them from debt bondage. It is necessary to repatriate them to their native place for their rehabilitation, if they so wish and to keep a vigilant eye on the process of their rehabilitation.

Documentation serves the following useful purposes.

- it helps to formulate worthwhile schemes of rehabilitation which are area specific, need based, cost effective, time bound and result oriented;

- it helps to keep a tab on the content, quality and impact of rehabilitation programmes and to formulate and apply correctives to remove deficiencies in the implementation process;
- it particularly helps to protect and safeguard the rights and interests of interstate migrant workers who have been found to be working under conditions of bondage. Functionaries of development administration should visit and interact with the freed bonded labourers who are undergoing the difficult process of rehabilitation, ascertain their felt needs, preferences and interests and the extent to which the process of rehabilitation is beneficial to them. Every such visit should end up by establishing an emotive bond with the freed bonded labourers and their family members in a manner which assures and reassures the former that: (a) he/she is a free individual entity entitled to inalienable human rights and to lead a decent and dignified human existence; and (b) debt need not regulate his/her destiny.

6.4. Priority No. IV: Documentation of successful stories

The law on abolition of bonded labour system was enacted in 1975-76. The centrally sponsored scheme for rehabilitation of freed bonded labourers was introduced in May 1978. The scheme has undergone a lot of qualitative changes and by now a sum of Rs. 500 million has been allocated by the GOI under the scheme in favour of 12 states. Senior officials of the Ministry have visited the states for on-the-spot studies on the status of bonded labourers after release and rehabilitation. The Programme Evaluation Organization of the Planning Commission as well as the Centre for Rural Development of the Indian Institute of Public Administration, Delhi, have carried out in-depth evaluation studies in respect of selected districts to assess the content, quality and impact of rehabilitation programme in those districts. The Lal Bahadur Shastri National Academy of Administration (LBSNAA) has also conducted a number of seminars, symposia and workshops on the subject of identification, release and rehabilitation of bonded labourers with a view to sensitizing the probationers of the Indian Administration Service. It has also pressed them to action to visit establishments (brick kilns, stone quarries, plantations, etc.) to identify the incidence of the bonded labour system. It has brought out five volumes of study reports on the prevalence of bonded labour systems.

All these study reports, reports of field visits, evaluation studies, etc., contain a number of success stories of individual officer's initiatives, initiatives of government, initiatives of NGOs and the response of freed bonded labour beneficiaries. There are socio-legal investigating commissioners appointed by the Supreme Court who have thrown adequate light on various aspects of debt bondage and how effectively the problem is being tacked at the field level. Some of them may have been documented while many are yet to be documented. It would be useful if all these reports could be collected, screened, success stories compiled and thereafter published as official documents.

Such documentation would serve a variety of useful purposes such as:

- it would carry conviction that elimination of forced / bonded labour is not utopian but possible, feasible and achievable;
- it would demonstrate that rational and scientific methodologies are available for identification of bonded labour systems;
- it would act as a force to inspire and motivate many others to follow the examples already set;
- it would dispel a lot of doubts and unfounded mindsets about forced / bonded labour and reinforce the need for its total elimination;
- such documentation can also be used for training.

6.5. Priority No. V: Sensitization and orientation

Training is an important input for human resource development. It imparts knowledge, information and skills. It removes cynicism and skepticism. It is a tool for learning by sharing as well as a tool for carrying conviction. It sensitizes the insensitive. Training has a content and a process.

In the context of elimination of forced/bonded labour, the content of training would be:

- the problem of forced/bonded labour in India is the outcome of poverty, landlessness, lack of assets and various other forms of social injustices and deprivation;
- such a problem can occur and recur at any point if time. It is open-ended;

- such a problem is not confined to agriculture. It can be found in any occupation;
- it is not confined to any particular sex or age group;
- what is of utmost importance in conducting investigation into the existence/non-existence of a bonded labour system, is the humane and sensitive understanding of the situation on the ground;
- one needs to perceive, internalize and adopt completely non-conventional and unorthodox ways of securing release of bonded labourers through summary trial;
- identification, release and rehabilitation should be simultaneous operations;
- a different strategy would be needed for rehabilitation of persons of different age groups as also of those placed in different situations;
- the task of elimination of forced labour should be viewed primarily as a human rights and developmental issue;
- there is need for tremendous political will, commitment and determination at all levels to grapple with and overcome the problem;
- it should be viewed as an issue of societal, national and international concern and not just the concern of any particular ministry or department or agency;
- there is a clear possibility of pooling resources from a variety of sources (including external funding) and integrating the same imaginatively and skillfully, with a view to achieving the objective of holistic and integrated rehabilitation.

The process of orientation and training comprises:

- determination of functionaries at each level to be trained;
- determination of the number of trainers to impart training at each level;
- identification of state/district-level training institutions where the trainers can be trained;
- design of curriculum, course content and materials to be used for each training to be decided through a workshop;

- fixing time, venue and duration of training;
- determining on the basis of need, the residential/non-residential nature of training and providing logistic support for both;
- working out the estimates of cost of each training and making a budget provision;
- actual imparting of orientation/training in a discussion mode;
- institutionalizing arrangements for evaluation of the actual outcome and impact vis-à-vis the expected outcome of each training.

As regards methodology of training:

- the methodology should be as participative and communicative;
- skits, role–pay and simulation exercises on the scheme of training should be freely used;
- such role–pay and simulation exercises should enable the trainees to internalize the very difficult situation in which the bonded labourers have been placed;
- training should drive home the central message that it is not the existence of bonded labour system that is a disgrace on the administration, but the failure of the administration to recognize this system that makes it a disgrace;
- provisions of law and judgments of the Supreme Court need to be translated into regional language(s) and disseminated for use in training;
- making extensive and repeated use of case studies on the definition and status of bonded labourers in real life situation.

6.6. Priority No. VI: identification of unfree bonded labourers

There are two aspects in the identification process. One is the machinery and the other is the methodology to be followed. The Bonded Labour System (Abolition) Act speaks of vigilance committees as the machinery responsible for identification but it has not laid down any precise methodology for such identification.

Past experience in regard to identification of bonded labour system has not been successful on account of the following:

- adoption of a formal, stereotyped and routine approach by lower level functionaries for which they draw blank in terms of getting a proper response;
- pervasive ignorance, low level of awareness and aspirations as well as the socio-economic backwardness of the bonded labourers.

Despite those limitations, household surveys or establishment surveys can yield useful results provided:

- such surveys are used as tools for listening, empathizing and learning;
- the survey is conducted with a humane and sensitive understanding of the situation in which the persons to be surveyed work and live.

A few stages in the process of conducting a household / establishment survey:

- formation of survey teams comprising coordinators, advisers and members of district/taluka/mandal/block/panchayat level;
- design of a simple questionnaire for survey;
- orientation and sensitization of team members on the methodology of the survey through a workshop;
- collecting data through questioning of households and establishments;
- compilation, analysis of data and drawing of conclusions.

Conducting a survey in respect of over 200 million households and over 10 million establishments (industrial, commercial, mining, plantation, etc.) would be a formidable proposition. The best course of action would therefore be to combine the first with the decennial census operation (2011) while in regard to the second, the strategy and methodology may be worked out by the Ministry of Labour in consultation with the NSSO. Simultaneously, and by an order of immediate priority, pockets in different parts of India which are dry, drought prone and poverty stricken and which are prone to cycles of drought/famine, migration, indebtedness and bondage could be identified and surveys undertaken on a selective basis by the vigilance committees of those districts in collaboration with a team of good, reliable and committed NGOs and student volunteers (from schools, colleges and universities).

There are special problems of migrant bonded labourers and a special strategy for them will have to be adopted. The contours of that strategy are:

- identify the pockets of migration;
- bring together the officials of labour-sending and labour-receiving states for a dialogue;
- constitute joint study teams comprising of officers from both states to visit the worksites to listen to the grievances of migrant workers;
- release of such workers on the strength of the findings of the joint study team as they are found to be working under conditions akin to bondage;
- ascertain the preference of these workers as to where they would like to rehabilitate themselves.

The services of the reporters of the National Human Rights Commission as well as that of the socio-legal investigating commissioners of the Supreme Court could be made use of in unearthing the ills of the bonded labour system.

The data pertaining to identification, release and rehabilitation of bonded labourers should be computerized so that such data can be retrieved as and when necessary. This would involve orientation and training or chairpersons and members of vigilance committees in computerization.

6.7. Priority No. VII: Preventing the occurrence/recurrence of debt bondage

Landless agricultural labourers, sharecroppers, persons below poverty line level, who are landless and assetless, migrant workers, etc., turn to moneylenders and other middlemen for loan/debt/advance partly for survival and partly for ceremonial and other miscellaneous needs. In the process they get indebted and bonded to their creditors due to their inability to repay the loan, which gets compounded due to usurious rates of interest. The question that naturally arises is: Can such contingencies be dealt with? Can occurrence and recurrence of debt bondage be prevented? The answer is yes. Debt bondage is 100 per cent preventable and can be prevented. In the following paragraphs an attempt has been made to find an answer to this difficult problem on a long-term basis.

Access to Microcredit

Microcredit is the provision of a board range of financial services such as deposits, loans, payment services, money transfers and insurance to poor and low income households and their micro-enterprises (retail services).

The rationale for the provision of microcredit arises on account of the following:

- the majority of rural poor in India, numbering more than 200 million, are outside the realm of formal financial institutions due to:
  - perceived high risks;
  - high costs involved in a small transaction;
  - inability of the poor to provide the physical collateral insisted upon by credit institutions;
- the formal credit delivery system has not been able to keep pace actual demand for small credit;
- the formal credit delivery system is not fully knowledgeable of the social objectives for providing credit to the rural poor;
- the poor on many occasions need emergency credit for consumptions, medical and ceremonial purposes which the formal credit delivery system cannot deliver.

The modalities for institutionalizing microcredit are well established. These are relevant for both categories of poor, i.e. those who work under normal conditions of freedom and those who are unfree. These are:

- target the poorest of the poor with women amongst adult members of a poor household as the priority target group;
- conduct baseline survey amongst the targeted population;

- demarcate a specific number of households for formation of self-help groups/thrift and credit groups;
- promote and encourage building up of a group savings fund from the savings of the members of a group;
- build up a climate of trust, goodwill and solidarity among them;
- facilitate interest free loans from the fund for food, clothing, medical and other subsistence needs of the members of the group(s);
- enable the group members to determine the repayment schedule based on the capacity of each member to repay;
- facilitate loans for income generating activities (poultry, piggery, fisheries, horticulture, sericulture, arts/crafts, etc.) to break the vicious cycle of "low income, low savings and low investment",
- organize meetings at convenient locations to spread the message of microcredit and to carry conviction to clients on the principles of "reliability, affordability and sustainability" of services;
- institutionalize training of the members of the shgs as a tool of human resource development as well as a tool for unleashing the creative and productive capacity of the poor.

Microcredit as a tool for eradication of poverty and for elimination of debt bondage has tremendous potential in India on account of the following:

- the Government of India has adopted a proactive policy towards microcredit for the last 20 years;
- the Rastriya Mahila Kosh has been set up to exclusively cater to the demands of various NGOs providing microcredit services to self-help groups of women. A number of rural banks and cooperatives provide credit to the rural poor under the priority sector lending policy. The National Bank for Agriculture and Rural Development (NABARD) set up to enhance the outreach of microcredit to the rural poor undertakes a number of inter related activities under three major heads such as credit dispensation, regulatory, promotional and developmental activities. The Small Industries Development Bank of India (SIDBI) supports NGOs and SHGs for on-lending to individual micro entrepreneurs and for developing sustainable SHGs. In

providing easy access of the poor to microcredit, the State can take the primary though not the sole initiative. The State can undoubtedly enlist the involvement and support of good, reliable and committed NGOs who are largely non-political or apolitical and whose only ideology is development and empowerment of the poor through a philosophy of self-reliance.

Implementation of land reforms

Any programme of land reforms should be viewed as a tool of removing inequality in possession of land, inequality in access to means of production (water, fertilizer, pesticide, credit) and inequality in reaping the usufructs from land at a fair and remunerative price (through the policy of procurement of government).

In the context of elimination of debt bondage such reform would have the following components:

- legislation should be enacted banning purchase of land belonging to members of SC/ST by persons who do not belong to SC/ST;
- such legislation exists in many states for members of ST; it needs to be strictly enforced;
- all states/UTs should enact and enforce such legislation for members of SC;
- the proposed legislation should cover, in addition to lands allotted by government, lands otherwise owned by a member of the SC/ST community;
- for the purpose of allotment of house sites and agricultural land, three categories of land can be considered, i.e. ceiling surplus land, government land (including forest land) or private land. A few parameters of land reforms policy to be kept in view are indicated below:
  - ceiling laws should be properly implemented and carried to its logical conclusion;
  - any relaxation in ceiling laws should be sparingly considered;
  - all land owned by the central or the state governments or any other public authority and which is not required for any public purpose should be made available for distribution amongst the landless labourers with priority for members of SC and ST;

- a district survey should be undertaken to identify the extent of landlessness, extent of land taken over from members of SC/ST by manipulation/fraud and cost of private land that may have to be purchased;
- a systematically planned drive should be launched by every state government to restore land to the SC/ST;
- efforts should be made to remove gaps between the date of allotment, date of handing over the document in support of ownership and the date of physical possession;
- every unit of land allotted and given possession should be developed to its full productive capacity;
- wherever ground water resources are available, irrigation through wells should be provided;
- where rainfall is less and ground water has been depleted, other ways of improving water table to provide access to irrigation through integrated watershed planning, management and development should be explored.

Access to avenues of full, free and productive employment

The approach paper to the Eighth Five-Year Plan (May 1990) candidly admitted that even after four decades of planning, the task of ensuring full employment and even a moderate standard of living for everyone remained unfulfilled and evident as shown by the following facts:

- the employment growth rate is much lower than rate of growth of GDP;
- it is much lower and slower than the labour force growth rate;
- productive employment for both men and women is not available throughout the year;
- the access to employment is inequitable for men and women as well as in between urban and rural areas;
- employment in the sweated sector is largely non-remunerative and is of poor quality;
- real wages have persistently remained low and even declined.

Some of the above conclusions have been confirmed by the findings of the 55th round of the NSSO Survey (July 1999-June 2000) on Employment and Unemployment in India. The current employment situation in rural areas which has considerable bearing on the pernicious system of debt bondage is characterized by the following:

- lack of stable and durable employment caused by the excessive seasonality of employment;
- the number of landless agricultural labourers is on the increase;
- limited availability of land in terms of absorbing such growing number of agricultural labourers;
- a number of agricultural labourers is simultaneously getting displaced from land;
- such displacement is invariably accompanied by poor quality of employment that is also insecure and exploitative,

The National Commission on Rural Labour constituted by the Ministry of Labour (1987-91) set up study groups on the issue of employment and unemployment in rural areas. Amongst their many conclusions and recommendations, the ones that have maximum bearing on preventing occurrence and recurrence of debt bondage are:

- within the farm sector, focus should shift away from generating employment in crop production to:
  - strengthening the productive base through, for example, better soil and water conservation and management;
  - promoting ancillary activities such as animal husbandry, forestry, fisheries and agro-processing;
- in view of the growing marginalization of the peasantry and fragmentation of agricultural holdings, the emphasis should be to move away progressively from the farm to the non-farm sector in rural areas.

This recommendation has implications on the one hand for directing efforts towards skill formation and providing social and economic infrastructure (provision of credit and marketing support). Skill formation and upgrading programmes need requisite infrastructure for training, technology transfer, raw material, credit supply and marketing. A balanced mix of avenues of employment opportunities in the farm as well as in the non-farm sectors such as undertaking massive public works programmes, freeing public works from the clutches of middlemen and entrusting them to village committees, linking employment and earnings with public distribution system, appear to provide some plausible answer to the problem.

Enforcement of the law on minimum wage and strengthening the public distribution system

Minimum wage is the rock bottom subsistence wage below which no industry or employer should pay. The Apex Court of India, in a judgment in the Asiad Worker's case in April 1982, held that the denial of minimum wage amounts to the existence of forced labour. The Apex Court, in the subsequent judgment (Reptacos Brett Co. Case), laid down elaborate norms and criteria that should be kept in mind by the Government when fixing minimum wages. These have reinforced the importance of the earlier observation. As a matter of fact, the Apex Court has held in another judgment that an establishment that cannot pay minimum wage has no right to exist.

In concrete operational terms, the following action would need to be initiated to fix, review, revise and enforce minimum wages so that wage employment is remunerative and there is no economic deprivation:

- new employment should be added to the number of scheduled employments under the MW Act so that a maximum number of economic activities are brought within the purview of law;
- the procedure of fixing, reviewing and revising minimum wages should be made simpler and take less time to be put into effect so that the wages so fixed and revised are in tune with the ground-level realities;
- in view of the repaid changes taking place in the labour market, minimum wages should be reviewed once every two years (as against five years which is the case now);
- a major portion of the wage should be paid in cash and not in kind since computation of cash value of wages paid in kind is fraught with severe limitations;
- all cases of unauthorized deductions and those of payment of middlemen's commission should be severely dealt with by the law enforcing machinery.

Access to skill training for both skill formation and skill upgrading

Skill training is an integral part of the total process of human resources development. The process is directed towards imparting new skills which are need-based while sharpening and refining existing skills to make them market relevant. Such skills are multiple such as:

- life skills;
- communication skills;
- participation skills;
- survival skills;
- vocational skills;
- entrepreneurial, managerial and supervisory skills.

The following measures need to be adopted and implemented to achieve the desired objective of skill training as an effective tool of rehabilitation of freed bonded labourers:

- the existing skill training programmes such as TRYSEM and DWCRA should be fully harnessed for the benefit of freed bonded labourers;
- the existing norms and criteria for application of these skill training programmes for the benefit of the freed bonded labourers should be relaxed, keeping in mind their past years of servitude illiteracy and socio-economic backwardness;
- a detailed exercise should be undertaken by each sectoral department/agency to identify the potential and opportunities in each area before schemes are formulated in cottage and village industries, handicrafts, small trade and business and establish a linkage with the training programmes in various ministries/ departments;
- infrastructural and institutional arrangements for marketing, supply of raw materials and credit, etc., should be included into the programme so that the freed bonded labourer may have the necessary physical and financial wherewithal to start producing soon after training and be able to sell the finished products at remunerative prices.

6.8. Priority No. VIII: Legislative aspects

Review and enforcement of the law relating to credit

Moneylending through the traditional channels is one of the most abhorrent practices in India today. The transaction is conducted under unequal exchange terms, is veiled in secrecy and without any transparency. This is true both before a person gets into the status of debt bondage and, ironically, even truer after a person has been released from debt bondage, since in the absence of any other alternative institutional mechanism, he/she has to turn to the same moneylender of the village. To ensure that the freed bonded labourers remain free forever and do not slide back into debt bondage, the vice-like grip of the moneylenders has to be completely broken. This can be done partly through stringent enforcement of the provisions of the law relating to moneylenders on the one hand, and by largely mobilizing and organizing the freed bonded labourers into cooperatives on the other. Gaps and omissions in the existing law need to be corrected to make moneylending a credible and transparent transaction. Simultaneously, the freed bonded labourers need to be mobilized and organized into cooperatives to liberate them fully from the clutches of moneylenders.

Enforcement of the law on elimination of child labour

All working children may not be bonded children, particularly those in a situation where the law permits the children to work. There may, however, be situations where children may be working in bonded or slave-like conditions. It is urgent and imperative that the State intervenes in such a situation to release all these children from work and to rehabilitate them so that the petals of childhood do not wither away before blossoming to the flowers of youth. This is the situation in which over 100 million children are placed in India. They are out of school, are victims of educational deprivation and many of them are working for long hours for a wage which is often a pittance in industries, occupations and processes which are clearly hazardous to their physical and psychological well-being and life. Ironically enough, the law in India largely tolerates the employment of children. It is a strange combination of prohibition and regulation that works mostly to the disadvantage of the children. While the law has prohibited employment of children in 70 occupations and processes over a period of 15 years since the law came into effect, it has permitted children to work in thousands of occupations and processes which are not considered to be hazardous. As of now, millions of children continue to work regardless of whether their employment in a particular occupation or process has been prohibited or not. Regardless of whether working children are bonded or not, there is an explicit danger that highly undesirable consequences follow such work. Children who are exposed to a very harsh work environment at a tender, formative and impressionable stage of their development lose their childhood (and all the excitement and joy associated therewith). As they cross the threshold of childhood and enter adulthood they would have lost much of the vital impetus that makes adulthood productive and meaningful.

A multi-pronged strategy needs to be adopted to deal with this problem.

The following are the broad outlines of that strategy:

- launching a countrywide campaign with the help of printed, electronic and folk cultural media and that of NGOs for sensitizing parents, employers and all sections of the civil society, helping also to change preconceived cultural ways of thinking;
- the central message of these campaign should be: (a) access to free, compulsory and universal primary and elementary education is a fundamental right of all children in the 6-14 age group; (b) the members of the civil society (including parents and employers) have no moral right or authority to deny children these rights; (c) child labour and educational deprivation are coterminous; and (d) no one has the moral right or authority to push children into the world of work against their wishes, thereby pushing them to the brink of near destruction of their lives;
- imparting vocational skill training to the adults and making them learn an appropriate technology which would help to prepare them to replace children in specific industries particularly hazardous to the health and well-being of such children;
- attaching the highest priority to release all children from the captivity of bonded labour keepers by stringent enforcement of the provisions of the Bonded Labour System (Abolition) Act;
- opening special schools with the help of NGOs for rehabilitation of such children through education, nutrition and skill training;
- linking free, compulsory and universal basic education of all children in the 6-14 age group to the elimination of child labour and making it an integral part of a long-term perspective plan, which would have a number of basic components in terms of

location, architecture, school timing, selection, orientation and training of teachers, integrating work and study, integrating elimination of child labour in the curriculum, course content and textual materials for the school children, and achievement of the minimum levels of learning, etc.

Strengthening and activating the labour law enforcement machinery

There is a co-relation between the Contract Labour (Regulation and Abolition) Act, 1970, Interstate Migrant (Regulation of Employment and Conditions of Service) Act, 1979, Child Labour (Prohibition and Regulation) Act, 1986, and Bonded labour System (Abolition) Act, 1976, even though these laws were enacted at different points of time and with different objectives. There may be situations when a contract worker or interstate migrant worker is called upon to render labour or service of the nature mentioned in sub-clause (i) of section 2 of the Bonded Labour System (Abolition) Act. Such workers would clearly come within the purview of the bonded labour system within the meaning of S.2(g) of that Act. It is precisely with this end in mind that an explanation was added to the Bonded Labour System (Abolition) Act in 1985 (Act 73 of 1985).

Similarly, a working child becomes a bonded child if it is established beyond doubt that a child is working in an establishment under conditions that come within sub-clause (i) of clause (g) of section 2.

There are several parts of India (and notably in Andhra Pradesh and Tamilnadu) where the parents take loan/debt/advance from moneylenders/contractors and pledge the services of their children to them. The children work under harsh and exploitative conditions until such time the loan is fully repaid. These children would undoubtedly come within the purview of S.2 (g) of the Bonded Labour System (Abolition) Act and should be called bonded children.

Likewise, if children accompanying migrant parents (who are recruited by recruiting agents on payment of loan/debt/advance) are pushed to work against their wishes at the destination point they would come fully within the purview of S.2(g) of the Bonded Labour System (Abolition) Act.

Officers of the labour law enforcement machinery acting as inspectors at the central and state level should inform, equip and conduct themselves in such manner as would prevent contract and interstate migrant workers and their children from getting into debt bondage. The machinery needs to be strengthened and sensitized through training. Since one person is required to act as an inspector under a number of labour laws, it may be necessary to draw officers from various ministries/department and notify and train them so that the existing machinery is eased of its overburdened inspectorial role.

6.9. Priority No. IX: Strengthening and activating committees

Quite apart from the composition laid down u/s 13 of the Bonded Labour System (Abolition) Act, it would be appropriate to induct a few right-thinking and progressive-minded individuals and co-opt them as members of vigilance committees to make it broad-based and ensure its proper functioning.

Additionally a few other specific suggestions may be considered for strengthening and activating vigilance committees. These are:

- all vigilance committees should be reconstituted in the manner envisaged in law once every two years;
- the chairpersons of these committees at the district and subdivisional level should ensure that they meet at close and regular intervals;
- it would be appropriate if after the first meeting and after laying down certain guidelines the chairperson and members set out on field visits for identification of bonded labour systems;
- a selective and focused approach would yield desired results. Pockets that are prone to debt bondage may be identified first on the basis of locally available information;
- on the basis of field visits/surveys and the findings thereof the committees should be able to place concrete cases before the executive magistrate appointed u/s 21 of the Act;
- it may be appropriate if outside the ambit the law and purely as an administrative measure national and state level bodies are set up to oversee and review the functioning of vigilance committees and other related matters arising out of implementing provisions of the law.
- the body at the national level may be called "national authority on elimination of forced/bonded labour". Similarly, the body at

the state level may be celled the "state authority on elimination of forced/bonded labour",

- the national authority may be headed by the Union Labour Minister with representatives from the Planning Commission, Ministries of Rural and Urban Development, Home, Law, Information and Broadcasting, Health and Family Welfare, Education, Women and Child Development, Social Justice and Empowerment and Tribal Development as members;
- the chief minister of the state may head the state authority; it may have representatives from Planning, Labour, Rural and Urban Development, Home, Law, Welfare of Scheduled Castes and Scheduled Tribes, Education, Health, Women and Child Development Departments as members;
- representatives from central employers', trade union organizations and NGOs may be co-opted as members in both bodies;
- in addition to overseeing the functioning and actual performance of vigilance committees, the central and state–level bodies would be responsible for formulation of policy and issue of directions for launching a countrywide advocacy/campaign for elimination of forced/bonded labour;
- while overseeing the functioning of vigilance committees, the bodies at the national and state level may fix norms and criteria for selection of the best performing vigilance committee(s) at the district and subdivisional level for awards/rewards/ incentives;

6.10. Priority No. X: Strengthening and activating the grievance machinery

Law is merely a framework, an enabling mechanism. While a law is enacted with the best if intentions, and duties and responsibilities of each actor are elaborately laid down in the framework of the law, in actual practice these are not performed at all or the performance is at best perfunctory. This is what gives rise to grievances of the aggrieved. To illustrate, the bonded labour keeper may not treat the statutory liability to repay the bonded debt extinguished. He may not vacate the attachment for recovery of bonded debt. He may not restore possession of any property belonging to a bonded labourer or a member of his family or any other dependent (which was forcibly taken over by the creditor).

It is necessary and desirable that there should be a mechanism as well as a procedure for airing and redressing all such grievances. The mechanism can be created and institutionalized at a number of levels:

- Ministry of Labour at the level of central Government;
- State Labour Department or such other department which handles the work of identification, release and rehabilitation of bonded labourers at the level of state government;
- district collector/magistrate at the district level;
- subdivisional/Taluk/Block/Mandal level.

The procedure to be followed at each level should be clearly laid down and should essentially cover the following:

- entertaining and registering the complaint;
- forwarding the complaint to the concerned quarter for investigation and submission of a report within a stipulated time limit;
- disposal of the complaint by issue of a proper order by the competent authority;
- communication of the order to the aggrieved;
- laying down a procedure for filing an appeal against the said order in case the complainant is aggrieved by the order;
- laying down a procedure for constant review of the number of complaints filed, number of complaints disposed of and number of complaints outstanding at the district, state and central Government levels.

The "camp approach" adopted by the Government of Rajasthan in the 1980s was an excellent example of a proper mechanism and procedure for ventilation and redress of complaints by an aggrieved person in a totally open and transparent manner. Such an approach should be revived and applied all over the country to create a climate which would instill hope, faith and confidence in the minds of all bonded labourers. There is need for continuous surveillance over the functioning of such mechanism at appropriate levels.

6.11. Priority No. XI: Cross-border trafficking of women and children

Trafficking generally refers to the recruitment and potentially to the transportation of persons within or across borders by use of deception, force or coercion. Trafficking should not be confused with voluntary labour migration (there is evidence that some children migrate voluntarily into highly exploitative situations). Besides, while prostitution is the most prominent reason for trafficking, it is not the only one.

The international solidarity, commitment and resolution to firmly deal with the issue was evident from a recent statement by Mr. Kofi Annan, Secretary-General of the United Nations. While addressing the opening ceremony for signing a new Convention against transnational organized crime in December 2000, in Palermo, Italy, he stated that "The trafficking of persons for forced labour and sexual exploitation was one of the most egregious violations of human rights which the UN now confronts". He further added, "We will not accept a world where we must raise our children in fear".

Causes and factors contributing to commercial sexual exploitation of women and children

Trafficking in children is caused both by economic factors and by prevalent structural inequalities and other social factors such as dysfunctional home life, cultural values, etc. In the context of India, even though it is a labour-receiving country (mostly from Bangladesh and Nepal), much of the trafficking takes place within its borders. A study by the Central Social Welfare Board reported that most children brought to cities like Bombay, Calcutta and Delhi come from states like Karnataka, Maharashtra, West Bengal and Tamilnadu.

The following factors could be attributed to this phenomenon:

- sanctions and practices by certain castes/tribes like the *Nats/Rajnats* who were traditional performers in UP and Rajasthan, *Bedias* of UP, Rajasthan and Madhya Pradesh, criminal communities like *Bhartu* and *Habura* of UP, *Dehrdar* or former singers and dancers in UP, *Gandharvas* or singers in UP, and *Kanjars*, a wandering community in UP, MP and Rajasthan, provide yet another route. The loss of traditional means of livelihood due to the spread of modern forms of entertainment forces many of these communities to allow exploitation of their girls/women for economic reasons;

- the practice of dedication of girls in the name of God as in the case of *Devadasi, Jogin, Basavi, Venkatsani*, etc., even though banned in the states of Karnataka, Maharashtra, Andhra Pradesh, Tamilnadu and Goa (where they were previously practiced), continue on a lower scale in a clandestine manner in some of these states;
- women who are in conditions of economic distress due to lack of ostensible means of livelihood, widowhood, separation from husbands, abandonment by family, etc., are forced against their will to become victims of commercial sexual exploitation.

Magnitude of the problem

The clandestine nature of these operations makes it extremely difficult to collect accurate, authentic and up-to-date data about the magnitude of the problem. A survey sponsored by the Central Social Welfare Board (CSWB) in 1991, in six metropolitan cities of India, indicated that the population of women and child victims of commercial sexual exploitation is between 70,000 to 100,000. The survey revealed that about 30 per cent of them are below 18 years of age. Nearly 40 per cent of them were inducted when they were less than 18 years of age. Nearly 40 per cent of them were inducted when they were less than 18 years of age. Seventy per cent of them are illiterate, while 43 per cent of them expressed a desire to be rescued.

Legal framework

The Constitution of India prohibits under article 23 trafficking in human beings. The Immoral Traffic (Prevention) Act, 1956, supplemented by the Indian Penal Code (IPC), prohibits trafficking in human beings, including children and lays down severe penalties. They prescribe punishment for crimes related to prostitution by both boys and girls who have not reached the age of 16 years.

The Juvenile Justice Act, 1986, provides for the care, protection, treatment and rehabilitation of neglected or delinquent juveniles including girls. The responsibility for enforcement of both the legislation and the IPC falls directly on the shoulders of the state government. According to all available indications the impact of various interventions – both legislative and administrative – has been minimal and trafficking, both within the country as well as cross border continues unabated. Generally speaking, the apathetic attitude from all sections of society to the issue of commercial sexual exploitation, lack of coordination between key players, risks including threat to life faced by social workers, NGOs and law enforcement officials, weak punishment for trafficking offenders, cumbersome repatriation process, and the social stigma attached to the victims, are factors responsible for the present unsatisfactory situation.

What can be done?

As the damage involved in trafficking is colossal and often irreparable, any plan of action – present or future – that is contemplated, must address the problem in its totality with all urgency and seriousness of concern. The plan of action to combat trafficking can be broadly divided under the following heads:

- prevention;
- protection and removal of children from trafficking situations;
- healing, return and integration of child victims.

Prevention

Prevention activities may take two forms: (i) those designed to increase community-level awareness of the problem; and (ii) those designed to provide alternative income generating or educational opportunities to children at risk. The first one is as important as the second one and must take place simultaneously in an even manner.

Some of the concrete steps that can be initiated to prevent trafficking both cross border and within the country, are illustrated below:

- producing prevention audio-videos in local language/dialect (relevant for members of tribal communities) as has been done in Thailand;
- formation of groups/sex workers' organizations to prevent trafficking of children (examples can be found in Calcutta, Mumbai, Dhaka and Kathmandu);
- imparting skills to children through effective income generation and education programmes that can be used by children to

improve the quality of their lives and reduce the risk of girls being lured into trafficking situations;

- setting up contact centres for migrant girls and women in search of employment and in danger of falling into traffickers' traps;
- creating a safe and secure environment for women and children through formation of watchdog committees, community surveillance groups and neighbourhood forums to counter crimes against women and children.

Protection and removal of children from trafficking situations

Indian missions in important source countries should network with the Ministry of Home Affairs to spot areas from where there have been reports of organized trafficking to India so that movement of women and children across the border could be monitored. Strict instructions should be issued to immigration officers, border police authorities and local police in transit for the purpose of keeping a vigil on the entry of young girls under suspicious circumstances into India from neighbouring countries. NGOs should be associated by government to set up help lines and help booths in identified bus and railway stations as also sea routes (ports) and international river transport points. Police, railway police, port and transport authorities should conduct surprise checking and inspection of persons taking young girls and women under suspicious circumstances for the purpose of trafficking. Brothels and other establishments where children are trafficked and exploited should be raided and children rescued. The Government should appoint and train a group of police officers to work solely on trafficking related-offences. Much of the success behind all governmental initiatives would lie in establishing a proper coordination between government and NGO sectors.

Healing, return and integration of victims

The central objective of the entire exercise would be to enable the women and child victims of commercial sexual exploitation to recover and to reintegrate themselves into the social mainstream to lead a life of dignity, decency and self-esteem. This is the most difficult and time-consuming task in the entire process of dealing with trafficking. This is on account of the traumatic situation that trafficked children undergo and which carries much shock and shame. Consequently, trafficked children who are rescued from the clutches of perpetrators of the crime cannot just be picked up and dispatched to their destination in a mechanical manner. The process of successful integration or rather the reintegration into the social mainstream must address the health, psychological and emotional needs in their totality in a which children would be assured and reassured that all is not lost and that they can get back what they have lost. What is needed is a network of protective homes which can provide girls and women with residential care, education, vocational training, medical and psychological services.

Repatriation and reintegration of trafficked children would require close cooperation and coordination between labour-sending and labour-receiving countries and among various actors at the governmental and NGO levels. Appointment of social workers who can maintain close and constant contact with the children who have returned, to reduce stigmatization and to provide counseling and alternative employment opportunities along with health care and medical services, could be some of the possible measures for such reintegration.

Economic empowerment of the victims should go side by side with social rehabilitation. Women victims should be guided and assisted to form SHGs to take up among other activities, thrift and credit. They could be assisted in this endeavour by the Rastriya Mahila Kosh (National Women's Credit Fund), banks, cooperatives, etc., for income generating activities. Women development corporations (WDCs) and others should be encouraged to take up training-cum-employment projects in both traditional and modern trades. They should be assisted for purchase of assets, infrastructure, raw materials supply, technical inputs and marketing tied up under the existing schemes of central and state governments.

7. Role of central employers' organizations

The main role and functions of a central employers' organizations is to protect and promote the interests of its members. Employers' organizations, however, constitute an integral part of the civil society and their interests cannot be different from or independent of social or national concerns. Any hiatus between business and civil society is bound to be detrimental to both.

The needs of civil society that may sound heterogeneous are:

- demand for public goods (education, nutrition, health, skill training, social security etc.);
- demand for basic decent norms and standards at the workplace (elimination of forced labour, elimination of child labour, freedom of association, collective bargaining, equality before law and equal protection of laws);
- demand for the expression of human potential (employable skills, job security, employment security, decent conditions of work, etc.).

The employers and their organizations, as members of civil society, have a definite role to play in furthering these demands and observing these norms and standards. This has become particularly pressing after emergence of the nine principles of the Global Compact announced by the Secretary-General of the United Nations, Kofi Annan, at the World Economic Forum in Davos, January 1999, and formally launched in July 2000. The Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards and environment. Elimination of all forms of forced and compulsory labour falls within the ambit of core labour standards with which there can be no compromise. It is non-negotiable.

The Government of India needs to initiate a dialogue with all six central employers' organizations to set in motion the following:

- identification of geographical areas and industries in each area which (on the basis of existing survey reports) are endemic as regards the existence of forced labour;
- issue a clear and categorical statement to the employers of industries in those areas to the effect that existence and continuance of forced labour in their establishments are not in order and must be ended;
- launch a media and communication campaign to highlight the damaging impact of the abominable practice of forced labour on the industry, on the shareholders, on the consumers, etc., and advocating the practice to be discontinued lock, stock and barrel;

- adopting areas and undertaking responsibility for rehabilitation of persons who have been victims of forced/compulsory labour through a series of measures which may be appropriate to a specific occasion;
- build up a synergy between programmes for the elimination of child labour and programmes for the identification, release and rehabilitation of freed bonded labourers.

8. Role of central trade unions

Workers' and employers' organizations have to devise a joint strategy with a common understanding about the vice of forced labour. The highlights of this strategy are:

- the issue of eliminating forced/bonded labour should be a topic for discussion in meetings of works committees and other consultative and participate forums found in an enterprise;
- in addition to having a correct understanding of the definition and concept of forced labour, there must be full agreement on the need for timely identification and release of persons who are alleged to be victims of forced labour, as well as on the need for their repatriation (if they happen to be migrant workers) and rehabilitation at their native habitat;
- employers of establishment and trade unions operating therein should issue joint statements from time to time, reaffirming their faith and commitment to uphold the dignity, decency and freedom of labour and their united resolution to create a work environment where each one could participate and contribute to the prosperity of the enterprise along with the observance of conditions of dignity, equality and freedom.

  Within the broad framework of such a joint strategy, central workers' organizations and their constituents can undertake the following specific activities to ensure that the phenomenon of forced labour does not occur and recur in any establishment:

- undertake awareness generation and sensitization programmes for constituent members to carry conviction to them that the existence and continuance of forced labour in any form is repugnant to civilized human conscience;

- integrate the issue of forced labour in all workers' education programmes which might be under implementation by the central workers' organizations at the relevant time;
- involve all sections of civil society and the local community for better detection and surveillance of the incidence of forced/bonded labour;
- incorporate the issue of elimination of forced/bonded labour into all collective bargaining agreements;
- undertake advocacy at both national and local government levels to highlight that forced and compulsory labour in any form is intolerable and must be done away with at any cost;
- undertake specific programmes for the identification, release and rehabilitation of forced/bonded labour.

As in the case of central employers' organizations, the Government in India should hold open discussions with all the eight CTUOs on the issue of elimination of forced/bonded labour with the following objectives:

- to involve trade unions in the process of collecting information on the existence of forced/bonded labour in specific regions/areas;
- to involve trade unions in the process of implementing programmes for rehabilitation of freed bonded laboures;
- to involve trade unions in conducting programmes for the orientation and training of officers of law enforcement machinery as well as the chairpersons and members of vigilance committees at the district and subdivisional level;
- to involve trade unions to act as ombudsmen for receiving complaints, for investigating complaints and for bringing correct facts to light on the basis of which timely action can be taken against the offenders.

9. The role of NGOs

NGOs should always be viewed as important partners and collaborators of government. Such a partnership should flow naturally and spontaneously from both sides. In the context of eliminating forced labour, the Government should invite NGOs for an open dialogue to plan a joint strategy instead of expecting NGOs to approach the Government for a partnership role. There are a number of good, reliable and committed NGOs which are largely non-political or apolitical and are based in remote, interior and inaccessible areas, and which have been working unremittingly to establish the much needed outreach to the deprived and neglected cross sections of society (such as the bonded labourers), carrying hope, faith and conviction to them.

The role that such NGOs can play in eliminating forced/bonded labour can be outlined as follows:

- only such NGOs that have the correct understanding of the phenomenon of forced/bonded labour and which are willing to work in the direction of the elimination of such labour should be selected. The help of NGOs of repute and standing at the national and state level should be taken into account in the selection of such NGOs;
- such NGOs should be willing to adopt an area specific, time-bound, need-based, cost effective and result-oriented approach;
- they can help the process of creating associations/groups of already identified and released bonded labourers and involve them in the task of identification;
- they can also mobilize SC and ST students and specially those from the landless agricultural labour families. Students of the above categories who also have a rural background should be first thoroughly trained and actively associated with the work of identifying bonded labourers as well as with that of organizing the work of relief and rehabilitation;
- the rural labour training camps being organized by the VV Giri National Labour Institute should be utilized for providing the right type of orientation to the student volunteers in handling the delicate task of identifying bonded labour systems;
- training of the student volunteers should primarily focus on the methodology of conducting a survey in areas where forced/compulsory/bonded labour is endemic on the basis of existing reports in a discrete and circumspect manner. All such surveys should be preceded by confidential inquiries in the neighbourhood through interaction with members of the local community in a non-intensive manner;

- while undertaking the survey with the help of student volunteers, the NGOs are likely to incur the wrath of vested interests. To counter this, the NGOs would need the support of the representatives of the people, i.e. MPs, MLAs, MLCs, members of local self governing bodies, functionaries of all development departments, as well as that of officials of the law enforcement machinery. This would involve a great deal of planning and coordination;
- it should be clearly noted that the existing law has entrusted the responsibility for identifying bonded labour systems to vigilance committees at the district and subdivisional level. The involvement of NGOs and student volunteers with the task of identifying bonded labour systems should, therefore, be with the full knowledge and approval of vigilance committees and that of the DM and SDM which head them respectively;
- it should be clearly noted that the existing machinery at the block, mandal, taluk, subdivision and district level, is totally inadequate to deal with the enormous task of identifying bonded labour systems. The officers of the machinery being saddled with their own responsibilities neither have the time nor requisite attitude and approach so vitally needed to attend to an unconventional task such as identifying bonded labourers. What is of vital importance is that the official machinery in all humility should acknowledge the impossibility of the task and should gracefully involve the NGOs in the entire process of identification;
- NGOs work and live with the people at the grass-root level. They have flexibility in organizational structure and operations. They have a team of committed and dedicated activists who are intimately involved with the working and living conditions of people at the ground level. This flexibility and presence of a hardcore team is the greatest strength of the NGOs. Apart from taking responsibility for identification of bonded labour through survey and rehabilitation of freed bonded labourers, the NGOs can be the most effective medium for transmitting the following central message:
  - the existence and continuance of forced labour is a crime and all outrage against humanity;

- it is a negation of inalienable human rights;
- it is a negation of all the values and principles reflected in the ILO's Constitution and Declaration of Philadelphia as well as in the Constitution of India;
- it cannot be tolerated in any manner, in any form and in any part of the territory of a country.

This can be done through print, electronic and through folk-cultural media. It can also be done through songs, slogans, nukkad nataks (street theatres), skits, posters, role plays and simulation exercises. The services of such NGOs should be enlisted for this purpose since they have amongst them first-rate creative thinkers, writers, playwright, singers, dancers, printers and other artistes who can be the most effective conduits of transmission of messages relating to elimination of forced labour.

10. Conclusion

An objective and dispassionate analysis of the magnitude of the problem of forced/bonded labour in India vis-à-vis the constitutional and legal provisions and the countrywide efforts made to deal with the pernicious practice of debt bondage with a view to putting an end to it reveals the following.

India is a sovereign democratic republic with a free press, a parliament and an independent judiciary. It has clear constitutional and statutory provisions relating to elimination of forced/bonded labour. The Supreme Court of India has taken cognizance of the issue of forced/bonded labour on more than one occasion, has given a broad, liberal and expansive interpretation of the definition, has issued a number of directions to the central and state governments on the subject and has now entrusted the responsibility for overseeing the extent of compliance with its directions to the National Human Rights Commission. The latter is now directly monitoring the pace and progress of implementation of the directions of the Apex Court and will be reporting to the Apex Court from time to time. The state governments who are directly responsible for implementation of the provisions of the law as also the centrally sponsored scheme for rehabilitation of freed bonded labourers have field independent affidavits before the Apex Court by way of reporting to the latter the present status of compliance with its directions.

These are positive developments and deserve to be commended. The magnitude of the problem, however, remains very large and even though a number of positive steps have been taken, a lot more remains to be done by way of planned, coordinated, concerted and convergent efforts. The issue of forced/bonded labour deserves to be attended to with a lot more urgency and seriousness of concern and in a time-bound manner.

The central objective of preparing a perspective plan was to highlight the following aspects of elimination of forced/bonded labour which are non-negotiable:

- the problem of forced/bonded labour in India is open-ended; it can occur and recur at any point of time; it does not cease to exist merely on account of enactment of a law nor on account of constitutional provisions;
- it is not confined to any particular sex or age group;
- it is the outcome of poverty, landlessness and lack of assets and various other forms of injustice and deprivation;
- no law is foolproof and everything cannot be stated in the framework of the law. To illustrate, the existing law is completely silent on the methodology to be followed for identification of bonded labour system. The law is silent on the modalities of socio-economic rehabilitation. In such a situation one has to think, reflect, critically analyse, apply one's imagination and come up with something which is not there in the body of the law and yet something which can be applied on the ground;
- in dealing with the problem one needs to adopt a non-formal, non-conventional and unorthodox approach which at the same time is intensely humane, patient, tolerate and catholic. Such an approach is likely to instill greater confidence in the mind of the people whom both the law and the programmes are meant to benefit;
- the basic approach to rehabilitation of freed bonded labourers is to treat them as free human beings with unsuspected possibilities. What is of utmost importance in such a process is the presence of all sections of a kind, compassionate and a

caring civil society with equally kind and considerate individuals in charge of rehabilitation;

- it is not possible for one single ministry, department or agency to take the entire responsibility for implementing all the components of rehabilitation to produce optimal results. One needs whole-hearted involvement of all ministries/departments/agencies to produce the desired results. One needs a convergent approach in which resources can be pooled from different departments and integrated in an imaginative manner to produce the desired results. One needs a multi-pronged and coordinated approach so that a number of operational areas (land allotment, land development, distribution of productive assets and their maintenance, marketing of milk, marketing of finished products in art/craft/skill-based programmes) can be properly coordinated by the nodal agency, all the loose ends tied up and timely corrective action taken to ensure the desired results in right time;
- a group approach to rehabilitation is always preferable to individual beneficiary oriented approaches as it yields the following dividends:
  - social integration;
  - social safety and security;
  - accessibility / convergence of a number of agencies at a single point;
  - economies of scale;
  - significant improvement in quality.

A perspective plan essentially provides a direction which the policy formulators and programme implementers should follow. If there is a national policy, the plan may point out the gaps and omissions in the policy and suggest the correctives needed to bring the policy in tune with the ground level realities. If there is no national policy, the plan may help its formulation. Similarly, the plan may influence programmes on the ground where implementation may be flawed. The plan may accelerate the implementation process and may help to bring about qualitative improvement and change.

A perspective plan is not primarily a search for resources although resources -physical and financial - are extremely important and have to be tailored to the need. It is evident that no perspective plan can be put into operation without availability of adequate resources. Resources are needed to survey the identification and enumeration of bonded labourers. Resources are needed for the orientation and training of a large number of functionaries at various levels. Resources are needed for the rehabilitation of freed bonded labourers. Resources are needed for the monitoring, coordination and supervision and, lastly, for evaluation of the content, process and impact of the programme. If the domestic budget cannot guarantee financial resources of the desired size one has to look for external funding to supplement the domestic budget. The size of funds will, therefore, require to be precisely worked out. The decision whether or not to seek external support is, of course, entirely the prerogative of the national Government.

7

BONDED LABOUR IN INDIA: ITS INCIDENCE AND PATTERN

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Foreword

In June 1998 the International Labour Conference adopted a Declaration on Fundamental Principles and Rights at Work and its Follow-up that obligates member States to respect, promote and realize freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation[1] The InFocus Programme on Promoting the Declaration is responsible for the reporting processes and technical cooperation activities associated with the Declaration; and it carries out awareness raising, advocacy and knowledge functions - of which this Working Paper is an example. Working Papers are meant to stimulate discussion of the questions covered by the Declaration. They express the views of the author, which are not necessarily those of the ILO

As part of ILO activities to promote the Declaration, a Special Action Programme to combat Forced Labour (SAP-FL) was created by the ILO Governing Body in November 2001. Since then, SAP-FL has conducted research, awareness raising and technical cooperation, working in close collaboration with governments, employers, workers and others to eliminate forced labour in all its forms.

This Working Paper on the incidence and patterns of bonded labour in India was commissioned as an input to the ILO Director-General's second global report on forced labour, entitled *A global alliance against forced labour*, prepared for the 93rd session of the International Labour Conference in June 2005.

As a particular manifestation of forced labour, bonded labour systems affect very large numbers of women and men, girls and boys in South Asia today. Strong legislative frameworks are in place in India, Nepal and Pakistan but, in practice, bonded labour persists. Yet there have been few recent systematic or large-scale surveys of its incidence and characteristics to allow for a reliable assessment of the current extent of the problem.

To help fill this gap, and to facilitate better understanding of bonded labour and its causes in South Asia, the ILO has undertaken a range of different initiatives. In Pakistan, a research programme undertaken together with the Ministry of Labour has involved rapid assessments of bonded labour in different economic sectors and parts of the country. These studies have been published as Declaration Working Papers[2] as well as in a compilation issued by the Government of Pakistan. In Nepal, various studies and surveys have been conducted of a particular form of bonded labour, known as the "*Kamaiya*" system, in Western regions. A separate study has addressed other forms of bonded labour elsewhere in Nepal.

In India, with its great diversity of labour arrangements, it can never be easy to present an overall picture of bonded labour incidence and characteristics. India was the first country in the South Asian region to enact legislation against bonded labour, in 1976. Many important measures have been taken since then to seek the eradication of forced and bonded labour, including Supreme Court judgments of the early 1980s. There have historically been a large number of studies of bonded labour in the country, focusing particularly on the agricultural sector.[3] But in more recent years, few academics or others have investigated the issue in a systematic way, and official statistics may indeed not cover all aspects of the situation. ILO supervisory bodies have for example referred on many occasions to the urgent need to compile accurate statistics of the number of persons who continue to suffer under bonded labour, using a valid statistical methodology, with a view to identification and release of bonded labourers. The Government of India has in the meantime pointed to progress made in the field of identification and rehabilitation, including central assistance provided to state governments for conducting surveys of bonded labour in 120 districts.

This present Working Paper does not aim to replicate all official information, or indeed to assess it. Instead, complementing other SAP-FL working papers on this complex matter, it aims to enrich the debate on bonded labour and its eradication in India by capturing some of the main trends over recent years. It aims essentially to compile and assess the contemporary evidence on bonded labour that has appeared in secondary sources.

Following consultation with the Ministry of Labour of the Government of India, this task was entrusted to Ravi S. Srivastava, Professor of Economics at Jawaharlal Nehru University in New Delhi, who has extensive experience in issues of rural labour markets, and particularly in migrant labour. Assisted by Mr. Anil Kumar Singh, Professor Srivastava undertook an extensive search of the recent literature on bonded labour, compiling evidence from academic sources, the Government of India, the National Human Rights Commission, other human rights organisations, non-governmental organisations and press reports. Extensive use was made of the internet. Telephone and personal interviews were held also with a number of key informants. While efforts were made to be as comprehensive as possible in this search, focusing in particular on the period since 2000, it should be noted that the work was conducted over a relatively short period in mid-2004, and that the researchers were not able to travel to individual states. It therefore stands to reason that not all sources of information are necessarily covered. Nonetheless, the author and we believe that the evidence collected and reviewed in this paper represents a reasonable sample of the current evidence, and considerable effort has been made to draw upon only those sources which appear to be authentic.[4]

The picture that emerges from the review provides compelling evidence of the persistence of bonded labour in a wide range of economic sectors and in many different States. Although it appears that the more traditional forms of agrarian labour attachment in India have declined substantially, it seems also that new forms of bondage have emerged in more modern agricultural as well as in many different sectors of the informal economy. Migrant labourers appear particularly vulnerable to bonded labour exploitation today,, through recruitment systems where labour contractors and intermediaries lure illinformed workers from their home communities with advance payments and false promises of well-paid, decent work. SAP-FL research shows that such deceptive arrangements are increasingly a feature of forced labour in all parts of the world, whether affecting internal or international migrants.

While not the main focus of the study, the paper also addresses some of the proactive measures that have been taken by the Government of India, its civil society partners and the ILO to address the prevention and rehabilitation of bonded labour. As elsewhere in the region, the ILO and its SAP-FL programme are keen to cooperate with the Ministry of Labour and other partners, providing any technical assistance that might enhance their efforts against bonded labour. We sincerely hope that the present Working Paper will be seen as one such step in this direction, and help identify areas where practical activities of technical cooperation can be further developed.

I would like to express my sincere gratitude to Professor Srivastava for undertaking this challenging assignment so ably, and for respecting the tight deadlines we were obliged to impose. I would like also to thank my colleague in SAP-FL, Caroline O'Reilly, who is responsible for our work on bonded labour in South Asia and who oversaw this research and edited the paper. Finally, my gratitude is extended to our colleagues in the ILO Subregional Office for South Asia in New Delhi, who provided excellent assistance and collaboration throughout the process of commissioning and completing this paper.

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Abbreviations

BLSA Act	Bonded Labour System (Abolition) Act
BMM	Bandhua Mukti Morcha
CEC	Centre for Education and Communication
GOI	Government of India
ILO	International Labour Organisation
ISMW	Act Inter State Migrant Workers Act
JEEVIKA	Jeetha Vimukti, Karnataka
MBC	Most Backward Caste
MLPC	Mine Labour Protection Campaign
NCRL	National Commission on Rural Labour
NHRC	National Human Rights Commission
NLI	National Labour Institute
PSHRC	Punjab State Human Rights Commission
PUCL	People's Union for Civil Liberties
SACCS	South Asian Coalition Against Child Servitude
SC	Scheduled Castes
SHG	Self-help Group
ST	Scheduled Tribes
VSJ	Volunteers for Social Justice

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1. Introduction

The main objective is this paper is to delineate the current nature and pattern of the incidence of bonded labour in India. Article 23 of the Constitution of India of 1949 bans trafficking in human beings and forced labour. However, the legislation defining and banning bonded labour was approved by Parliament only in 1976.

The first large survey to assess the nature and magnitude of bonded labour was undertaken in 1978. Subsequently, the Supreme Court of India has pronounced a number of judgements to clarify the meaning of the term 'bonded labour'. It has also appointed Commissioners to the Court and has given a number of directives to Central and State governments to indicate the incidence of bonded and forced labour and to vigorously implement the Bonded Labour System (Abolition) Act, 1976. Since 1997, the National Human Rights Commission (NHRC) has been given a pivotal role in monitoring the implementation of the Bonded Labour System (Abolition) Act and in ensuring that the directives of the Supreme Court are followed by the Central and State governments.

This paper draws on the contemporary evidence on bonded labour, using reports and surveys since the mid-90s, in order to identify changes that may have occurred in the incidence and pattern of bonded labour. The National Commission on Rural Labour (NCRL) Report of 1991 (Ministry of Labour 1991a and 1991b) will be an important benchmark in this study, both in interpreting the contemporary situation and situating changes that have occurred in the last few years.

2. Conceptual and Definitional Issues Relating to Bonded Labour

The UN Conventions and the ILO Conventions on Forced Labour define and prohibit various types of forced labour, slavery and servitude, and debt bondage.

The League of Nations adopted the Slavery Convention in 1926, which was followed by the first ILO Forced Labour Convention, 1930 (No. 29), ratified by India in 1951. Article 2(1) of the Convention defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". Following this, the United Nations' Universal Declaration of Human Rights (UDHR) of 1948 reaffirmed the principle that "no one shall be held in slavery or servitude" (Article 4) and the right to "free choice of employment" (Article 23(1)). Though Convention 29 on Forced Labour did not specifically refer to debt bondage, over time the ILO's Committee of Experts on the

Application of Conventions and Recommendations has stated repeatedly that 'debt bondage' is one form of 'forced labour' and is covered by the Convention's definition. The ILO's Worst Forms of Child Labour Convention, 1999 (No.182) specifically includes forced labour, debt bondage and serfdom of children in its purview.

Debt bondage is a specific form of forced labour, in which the element of compulsion is derived from debt. The UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956) defines debt bondage as "the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited or defined" (Article 1(a)).

Forced labour, slave labour and servitude are characterised by compulsion, whether customary or otherwise. Bonded labour is characterised by a creditor-debtor relationship between the employer and the employee which can then spill over to other members of the family, be of an indefinite duration, and involve adverse contractual stipulations not justified by law or even by the prevailing state of the market. Bonded labour relationships are also usually reinforced by custom or force. Thus bonded labour relationships are not purely economic contracts, even though employees may enter into them voluntarily because of economic necessity. Once employees enter into these relationships, they are characterised by multiple asymmetries and high exit costs, which were not a part of the contract, as understood by the employee, at the outset.

We would argue that bonded labour refers to a long-term relationship between employee and employer which is cemented through a loan, by custom or by force, which denies the employee various freedoms including to choose his or her employer, to enter into a fresh contract with the same employer or to negotiate the terms and condition of her/his contract. We also show below that this concurs with the view taken in the Indian Constitution.

The problem of unfree labour in society is age old (cf. Kumar, 1965). The status of various categories of labour in India has been historically circumscribed by the social structure which has also determined the access of various groups to land and other productive assets. The specific characteristics of bondage in contemporary India relate to the transition in the economy and society and have to be largely understood in terms of the nature of the articulation between poor and developed regions and between traditional and modern sectors.

Forced labour violates the fundamental rights guaranteed to all citizens by the Indian onstitution. Article 23(1) in Part III of the Indian Constitution, relating to Fundamental Rights, states that "Traffic in human beings and *begar*[5] and other forms of forced labour are prohibited and any contravention of the provision shall be an offence, punishable by law."

The law dealing with bonded and forced labour was legislated by the Indian Parliament in 1976. The Bonded Labour System Abolition Act (1976) of India is quite extraordinary in that it recognises (a) the overlap between forced labour and bonded labour in customary relationships, and also (b) the manifestation of these relationships in contract labour and inter-state migration, and (c) considers the nature of restraints[5] suffered by the labourer as a result of the bonded/forced labour relationship, and makes all of these illegal.

Section 2 of the Act sets out the definition of bonded labour; extracts of the Section are reproduced in full at Annex 1 to this paper.

The Act defines 'bonded labour' as a service rendered under the 'bonded labour system'. This is a system of forced, or partly forced, labour under which the debtor enters into an agreement, oral or written, with the creditor. According to this agreement, in consideration of an 'advance' obtained by the debtor or by any of his lineal ascendants and in consideration of interest on such an advance or in pursuance of any customary obligation or by reason of his birth in any particular caste or community, the debtor agrees to render, by himself or through any member of his family, labour for the creditor for a specified or unspecified period of time either without wages or for nominal wages[6], or forfeit the freedom of employment or other means of livelihood, or forfeit the right to move freely throughout India, or forfeit the right to appropriate or sell at market value any of his property or the product of his own or any of his family members' labour.

The 1976 Act also lays down the monitoring, enforcement and implementation modalities, which rest mainly with the State governments.

The ambit of 'bonded labour' prohibited by the 1976 Act has been clarified by the Supreme Court in a number of judgements, including the *Asiad Workers' Case* (1982) and the *Bandhua Mukti Morcha Case* (1984). The Courts have clarified that the 1976 Act is derived from Article 23(1) of the Constitution whose ambit is much wider than Article 4 of the UDHR, since "the Article strikes at forced labour in whatever form it may manifest itself, because it is violative of human dignity and is contrary to basic human values" (Supreme Court judgement in the Asiad case).

The Supreme Court of India has taken a wide view of what may constitute 'force' in a labour relationship, stating (also in the Asiad case) that: "Any factor which deprives a person of a choice of alternatives and compels him to adopt a particular course of action, may properly be regarded as 'force' and if labour and service is compelled as a result of such 'force' it would be 'forced labour'. The word 'force' must be construed to include not only physical or legal force but also force arising from compulsion of economic circumstances which leaves no choice of economic circumstance to a person in want and compels him to provide labour or service even though the remuneration received for it is less than the minimum wage. Therefore, when a person provides labour or service to another for remuneration, which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words 'forced labour'."

This is again reiterated by the Supreme Court in its judgement of 18 September 1992 (Writ Petition 8143 of 1981, People's Union for Democratic Rights vs. Union of India) where it clarified that "... when a person provides labour or service to another against receipt of remuneration which is less than the minimum wage, he is acting under some force of some compulsion which drives him to work though he is paid less than what he is entitled under law to receive."

Thus, one of the important outcomes of the bonded labour relationship, according to the Act and subsequent Supreme Court judgements, is the payment of the labourer at wages *which are below the prevailing market wage or the legally stipulated minimum wage*. Although this is a controversial stipulation in the case of certain sectors where market wages are normally below the legal minimum (as in agriculture in several regions), in sectors where there are long duration labour contracts, the payment of wages below the legal minimum is both a cause and effect of a significant incidence of credit bondage.[7]

The main thing to note here is that (a) the mere presence of a creditor-debtor relationship between a labourer and an employer is not sufficient to denote a bonded labour relationship: the latter should result also in other involuntary restraints on the labourer; and (b) in the Indian context, a creditor-debtor relationship is not even a necessary condition of bondage, since the Indian legal definition of bondage incorporates various categories of forced labour, while still treating the creditordebtor relationship as an important part of bondage.[8]

3. Incidence and Nature of Bonded Labour in India

Bonded labour was outlawed in India through an ordinance in 1975 and then through legislation in 1976. The first systematic survey of bonded labour was carried out by the Gandhi Peace Foundation and the National Labour Institute during May to December 1978 and placed the total number of bonded labourers at 2.62 million (Sarma, 1981). The estimate was based on a survey of 1000 villages in 10 states. In the survey, 61.5% of the bonded labourers were members of Scheduled Castes (SC) and 25.1% were members of Scheduled Tribes (ST). Among the employers, 89% were agriculturalists. The survey categorised bondage into inter-generational bondage; child bondage; loyalty bondage; bondage through land allotment; and widow bondage. The 32nd Round of the National Sample Survey Organisation gave an estimate of 343,000 bonded labourers in 16 major states.

The National Commission on Rural Labour (NCRL), 1991,[9] basing itself on the Study Group on Bonded Labour, chaired by B. N. Yugandhar,[10] presented the first comprehensive picture of the nature and incidence of bonded labour, its causes, and strategies for its abolition. It also made recommendations for amendments to the 1976 legislation.

The NCRL saw bondage of agricultural labourers as still being the main form of bondage in India. The Commission concluded that agricultural labour bondage was higher in States and districts characterised by a high percentage of rural labourers, low irrigation and agricultural productivity and poor infrastructure. However, there were bonded labourers also in the plantation sector: for example, bonded labourers from Orissa and Bihar were employed in the plantation sector in Assam and Tripura.

The NCRL mentioned the following non-agricultural sectors as having a high incidence of bonded labour (although it is conceded that they have not been adequately surveyed): stone quarries; migrant labour; brick kilns; system of *joginis* and *devdasis*; fishermen; forest labour; bidi workers; carpet weavers; pottery; weavers; head loaders; child labour in match and fireworks; carpet weaving etc.

The NCRL found a high incidence of migrant bonded labour: Bihari labour in the fields of Punjab, Haryana and Uttar Pradesh; in brick kilns of these states; in sugarcane fields in Gujarat; in stone and slate quarries and mines; in plantations of Assam; and even in the seaports of Gujarat. The Commission highlighted bondage among women on account of social as well as economic factors and mentioned the *joginis* of Andhra Pradesh and the *devdasis* of Karnataka.[11] In the Jaunsar-Babbar area, the Commission's report highlighted the indebtedness-induced prostitution of women and children. The Commission mentioned a high incidence of child labour and child bondage in a number of sectors. The Commission also highlighted the wellentrenchedsystem of tribal exploitation, expropriation and bondage in many parts of the country including the Santhal Parganas. In examining the regional spread of bonded labour, it found the practice widespread in all parts of the country.

The Commission noted the interesting and significant phenomenon of the same region both supplying and importing bonded migrant labour. Labourers from Andhra Pradesh outmigrate for work in quarries and kilns in Haryana, Punjab and Madhya Pradesh whereas labourers from other states are in bondage in the quarries of Andhra. Similarly, a two-way traffic of migrant bonded labour existed from Chhatisgarh and out of Singhbhum and in the sugarcane farms of Maharashtra and Gujarat.

The Supreme Court appointed on March 6, 1995, a two member commission comprising Mr. Siraj Saith and Mr. Felix Sugirtharaj to verify the contents of the affidavit of the Government of Tamil Nadu in Writ Petition No. 3922 of 1985 that there were only stray cases of bonded labour in the State of Tamil Nadu. The Commission submitted its report to the Court on October 31, 1995 (Sugirtharaj and Sait, 1995, hereafter referred to as the Tamil Nadu Commissioners' Report 1995). In an exhaustive report, based on a large survey, the Commissioners concluded that there were over one million bonded labourers in Tamil Nadu, spread over 23 districts and 20 occupations, of which 10 percent were bonded child labourers (with a higher rate among girls). Scheduled Caste (SC), Scheduled Tribe (ST) and Most Backward Caste (MBC) bonded labourers formed 76% of the total. The concentration of the low castes was higher in the quarry industry. In almost all cases, the element of bondage was found to be debt.

In the course of a hearing on a Writ Petition filed by the People's Union for Civil Liberties (PUCL) in April 1985 on the engagement of bonded labour in Tamil Nadu and Madhya Pradesh, the Supreme Court issued a direction in May 1994 to all the State Governments, *inter alia*, to collect information on the prevalence of bonded labour, to identify bonded labourers and to rehabilitate them. The State governments subsequently carried out surveys to ascertain the ground situation with regard to bonded labour. However, in most cases, the figures obtained and presented by the State governments subsequently turned out to be significantly underestimated.

Table 1 presents the number of bonded labourers identified in the 1996 surveys, and those subsequently identified and rehabilitated till March 31, 2004.

Table 1: Bonded Labourers identified in the 1996 surveys, and those subsequently identified and rehabilitated till March 31, 2004.

S. No	State	Identified in the1996 Surveys	Identified and Released till March31, 2004	Rehabilitated
1	Andhra Pradesh	0	37,988	31,534
2	Bihar	106	13,370	12,552
3	Karnataka	19	63,373	57,121
4	Madhya Pradesh	18	12,822	11,897
5	Orissa	0	50,010	46,882
6	Rajasthan	0	7,488	6,331
7	Tamil Nadu	25,008	65,573	65,573
8	Maharashtra	2	1,398	1,319
9	Uttar Pradesh	237	28,195	28,195
10	Kerala	0	823	710
11	Haryana	0	551	49
12	Gujarat	0	64	64
13	Arunachal Pradesh	3626	3526	2992
14	Chhatisgarh	0	124	124
15	Punjab	0	69	69
16	Uttaranchal	0	5	5
17	Total	29,016	285,379	265,417

Source: Director General, Labour Welfare, Ministry of Labour, Government of India

The regional picture that emerges is a high concentration of bonded labourers in the three Southern States of Andhra Pradesh, Tamil Nadu and Karnataka and in Uttar Pradesh. However, as we show throughout this paper, although there is widespread evidence of bonded labour throughout the country, our information depends upon scattered evidence and we do not have a clear and systematic basis for inferring regional or sectoral trends.

The NHRC constituted an Expert Group in 2000, chaired by Mr. S. R. Sankaran, for identification of bonded labour prone districts, industries and occupations and for various aspects relating to legislation and implementation. The Expert Group, in its Report submitted to the NHRC in 2001, concluded that although the Ministry of Labour had identified 13 states and 172 districts as being bonded labour prone, the system is prevalent in almost all states (NHRC, 2001).

The Expert Group also concluded that bonded labour in agriculture has a high incidence in the States of Andhra Pradesh, Bihar, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Punjab and Tamil Nadu. In the non-agricultural sector, it concluded that bonded labour is rampant in brick kilns, stone quarries, beedi manufacturing, carpet weaving and construction, and child bonded labour in the silk industry. It further concluded that migrant bonded labour involving states such as Bihar, Jharkhand, Chhatisgarh, Tamil Nadu, Madhya Pradesh, Orissa, Rajasthan, Punjab and Haryana represented an aggravated form of deprivation and exploitation (ibid.).

The Group felt that, owing to the efforts made by the NHRC through its Special Rapporteur system, the process of identification, release and rehabilitation of bonded labourers had received a fillip. For example, till 2001, 1,069 cases of bonded labour had been identified in Karnataka and another 1,212 were being investigated. In Tamil Nadu, since the survey of 1996-97, 10,850 cases had been identified. In Andhra Pradesh, 3,122 cases of bonded labour had been identified, mostly in 2001.

Although systematic, non-official surveys of bonded labour are difficult to come by, there are several surveys in different parts of the country and different industries which give an idea of the continued nature of the problem. Moreover, nongovernmental organizations which have taken up issues relating to bonded labourers and been leading the process of identification and release, have compiled extensive documentation. We refer to these surveys and statistics in our analysis below, although their findings are often not accepted by State governments or other official investi gating agencies.

For example, in Punjab, where the State government has till quite recently denied the existence of bonded labour, the NHRC has assiduously been pursuing complaints regarding bonded labour in agriculture, brick kilns and other sectors, and has upheld these complaints in a few cases. The Volunteers for Social Justice (VSJ), a nongovernmental organisation based in Punjab, has filed over 2,000 cases on behalf of both local and migrant bonded labourers released from agriculture, brick kilns and other sectors mainly in Punjab (Singh, 2003). A majority of the cases referred to bonded labourers belonging to the Scheduled Castes (59 % of the complaints made to the NHRC pertained to Scheduled Castes). Between 1998 and 2004, the VSJ was able to secure the release of 1,832 bonded labourers through the intervention of the NHRC, the Punjab State Human Rights Commission (PSHRC), Punjab and Haryana High Courts, the District Administration and the SC/ST Commissioner, but rehabilitation had taken place in only four cases (Singh, 2004). This is suggestive of the chasm between civil society organisations and government on the issue of bonded labour, which has so far not been bridged despite the efforts of the Supreme Court and the NHRC.

3.1 Typology of Bonded Labour

As we have noted above, there are few recent systematic surveys of bonded labour. However, an analysis of the existing evidence suggests that the non-agricultural sector now has a very significant number of bonded labourers. Broadly, our analysis of the literature and recent evidence suggests that the following types of bonded labour continue to be significant.

(a) Bonded labour that is a vestige of traditional social relations

Traditional social relations have sanctioned a caste-based division of labour in which servile castes are expected to perform low status functions in exchange for a guarantee of subsistence. Degrees of social exclusion ensure a low degree of social mobility and social cohesion despite a strong policy of positive discrimination pursued by the government. Moreover, personalised servile relationships based on the traditional social structure persist in some parts of the country, mostly in backward agriculture, but are also sometimes carried over into the non-agrarian sector, through, for example, domestic service. These relationships have declined over the years. Their

persistence today is probably less a matter of social custom and more due to other elements of force and compulsion, as brought out in recent enquiries into the Sullong tribe in the North-East.

Labour bondage draws heavily upon traditional social relations and the caste system, even in the non-agricultural sector, but can be seen most directly in agriculture and in bonded labour relationships involving tribals.

(b) Bonded labour in agriculture

The uneven pace of modernisation of agriculture has created new demands for a stable and servile labour force, which, in some cases, is obtained through credit bondage and elements of force, deceit and compulsion. Migrant labour situations seem to create a higher propensity for bondage. In the areas of origin, from where males are on the move, women or children may find themselves in bondage. In destination areas, migrant labour may end up in bondage. Bonded labour relations have also been alleged in commercial plantations. The paper examines the evidence regarding bonded labour in transitional agriculture.

(c) Bonded labour in the rural and urban unorganised and informal sector

The incidence of bonded labour is perhaps the highest in the unorganised and informal sector in India. And among the unorganised sectors, the incidence of bondage is probably the highest in quarries and open mines. These industries are mainly characterised by the predominance of manual processes, seasonality, remoteness and contract migrant labour. Brick kilns are another industry which reportedly continues to have a sizeable incidence of bonded labour. Among industries for which recent evidence has accumulated are power looms, handlooms, rice mills,

sericulture and silk weaving, woollen carpets, fish processing, and construction. Bonded labour, including of children, has been identified in a number of other sectors including the circus industry and domestic work.

(d) Child bonded labour: Several industries with a high incidence of child labour (woollen carpets, silk, gem cutting and polishing) still show an incidence of child bondage, which we will examine in this paper.

4. Causes of Bonded Labour

There are few systematic analyses of the causes and correlates of bonded labour in India. Studies of labour relations in the past have highlighted the link between caste and social structure and bondage, on the one hand, and traditional feudal social relations and bonded labour, on the other.[12] Colonialism heightened the dimension of debt bondage, both within and outside agriculture.[13] It is apparent from the evidence presented later in this paper that bondage and forced labour in India, whether traditional or modern, thrive on a bedrock of social hierarchy and discrimination, of which the former untouchable castes and the tribal groups, and women and children are the chief victims. It can be hypothesised that the low visibility of the issue of bondage is due precisely to the fact that its many victims have a low social ascription and fewer perceived rights.

Thorner and Thorner (1962) had drawn attention to three types of 'unfree' labour relations – the long-duration relations, the 'beck and call' relationship, and the system of 'forced' free or underpaid labour of tenants – each of these forms being underpinned by a relationship of dominance and dependence. In focusing on forms of forced labour in post-colonial agriculture in India, it may be useful to understand the extent to which these arose out of traditional or customary relationships, or were born out of forms of debt-bondage which emerged during the colonial period (reinforced by vestiges of 'custom'), or alternatively have their genesis in the requirements of capitalist agriculture. Many forms of labour attachment described by Thorner and Thorner (1962) and discussed in the First and Second Agriculture Labour Enquiry Committee Reports, bear predominantly traditional features which subsume loan and land-lease relationships. On the other hand, the relatively well-studied debt-bondage relationships in Palamau appear to belong mainly to the second category (Mundle, 1979). We have argued that the customary elements in such relationships have been under pressure in different regions of the country for a number of reasons, and that traditional forms of long-duration relationships have shown a tendency to decline over time.[14]

Attached labour relationships reflecting credit-labour linkages have also existed in agriculturally developed areas.[15] Indeed, it has been argued that attached labour may tend to rise with capitalist development in agriculture in order to meet the need of employers to secure peakseason labour and other all-year-round labour requirements (Bardhan and Rudra, 1981; Bhalla, 1976; Bardhan, 1984). There is a debate as to whether attached labour is necessarily bonded in the sense that it is characterised by 'unfreedom' and low remuneration. We have argued elsewhere (Srivastava, 1989, 1997, 2000) that this is not necessarily always the case. But at the same time, elements of bondage are often present in such labour relationships and careful analysis is therefore needed to categorise them. For example, the National Commission on Rural Labour (1991) found that in lieu of an initial loan, the 'naukar' in Haryana was compelled to accept a contract with several unacceptable features (including low wages) and which imposes severe constraints on his freedom. Jodhka (1994) described the system as one of labour mortgage.

The articulation of poor agrarian regions with regions of capitalist development through labour migration often also enables agrarian capitalists to impose poor working conditions and degrees of unfreedom on migrant labourers, even though local farm servants may enjoy superior working conditions. There has been considerable discussion of these issues in the context of Punjab's agriculture. Although some of the worst forms of exploitation seem to have abated with time, bonded labour relations are still reported in Punjab agriculture. In the case of Western Uttar Pradesh, our own studies have established bondage and forced labour among migrant labourers (Srivastava, 1999). There is also evidence of the phenomenon from other areas (e.g.cotton seed farms in Andhra Pradesh).

The colonial pattern of surplus extraction from agriculture, the abolition of slavery in the colonies and an enclave-type development of mines, plantation and industry, had earlier provided for both the supply of and demand for cheap labour. Recruitment patterns developed in response to information asymmetries and the transaction costs involved, on the one hand, and the need to obtain cheap and disciplined labour, on the other. Numerous studies have documented how a system of intermediaries was used in the colonial period to recruit indentured labour. Since then, labour recruitment continues to be of an organised nature in a number of industries and both the pattern of recruitment and labour deployment is dominated by contractors (Srivastava, 1998).

The recruitment pattern creates its own dynamic, segmenting the labour market and creating what Breman (1996) has termed as "circuits" of labour. The interesting issue is that, as we have pointed out elsewhere, labour migration is not impelled by labour scarcity but is prevalent both in areas of labour scarcity and labour abundance. In fact, the in-migration of labour in some areas is sometimes matched by out-migration, creating what we have called two-way circuits of labour (Srivastava, 1998).

This suggests that bondage of migrant labour is seen as a way of both disciplining labour and of keeping labour costs down. This is another reason why bonded labour systems thrive on the labour of migrants, women and children. Migratory labour is less able to assert rights and entitlements and is more vulnerable to predatory capitalism (Srivastava and Sasikumar, 2003). In a situation of transition of greater possibilities for assertion by local labour, migrant labour is also more susceptible to exploitation and bondage (ibid.).

Given the uneven pattern of development in post-colonial India, some relatively unorganised segments of the modern sector as well as the informal sector have continued to source cheap migrant labour supplies through credit bondage. Two-thirds of the country's workforce is still in agriculture and a similar proportion of arable area is rain-fed and drought-prone. The percentage of rural workers dependent on wage labour has been steadily increasing, along with a rise in the near assetlessness of such labourers (Srivastava 2000). The employment and livelihood potential of agriculture in such areas is extremely low and is subject to large seasonal fluctuations. The landholding structure is dominated by upper or middle castes who also dominate the emergent non-agrarian economy. Loans have to be taken by the poor labourers to tide over seasonal shortages or contingent expenditure. Contractors or employers step in with advances either to meet repayment requirements in the areas of origin or to provide the labourers with assistance to tide over the financial emergency. The migrant labourers then become involved in a vicious cycle of debt from which they cannot escape and which provides a handle to contractors and employers to impose numerous adverse conditions.[16]

In the tribal areas, the alienation of tribals from land and non-tribal control over land created the conditions for debt bondage in agriculture. Further, the uprooting of tribals from their traditional habitat, receding forest cover, low agricultural productivity and rain-fed agriculture, create the need for credit and for seeking employment and livelihoods under bondage, often through migration.[17]

Many of the rural sector industries that have a high incidence of bonded labour are situated in isolated settings, where intermediaries dominate the employment structure. The owners of these industries are either part of the rural power structure or have strong links with that structure. Moreover, these industries are technologically backward and labour intensive. Lack of technological modernisation is both a cause and an effect of the low cost labour processes that dominate these industries.

Public action, broadly conceived as the set of both regulatory and promotional developmental action undertaken by the State, has a strong influence on the existence of bonded labour. Most States in India have not so far focused sufficient attention on the developmental approaches that could eliminate the causes of bondage. Also, the regulatory framework tends to be weak. In places where the State has undertaken a set of promotional and redistributive policies that favour labourers, as in Kerala, the incidence of bonded labour is much lower.[18]

5. Incidence of Bonded Labour by Sector

5.1 Bonded Labour in Agriculture

The Bonded Labour System Abolition Act (1976) identified a large number of traditional labour systems which reproduce bondage, with or without debt. The Gandhi-Peace Foundation – National Labour Institute survey of 1978 (Sarma, 1981) identified a large number of bonded agricultural labourers in the States surveyed. A study of farm servants in different areas of Uttar Pradesh by Srivastava (1989) showed that customary labour relations, which could result in attachment without any debt bondage, were undergoing change in some parts, with the *hali* labour system in Western Uttar Pradesh having become more contractual with wages reflecting individual and skill differentials. The decline of traditional labour systems which resulted in forced labour has been documented and analysed in a number of studies. At the same time, new forms of attachment have been arising in developed agriculture, leading Srivastava (1989, 1996) to assert that there was a 'U' shaped relationship between the existence of labour attachment and agricultural development i.e. that it initially declines as agriculture develops, but starts to increase again at a later stage of development.

The nature of attachment, since the study by Bardhan and Rudra (1978), has been the subject of intense controversy in the theoretical literature. An analysis of recent evidence corroborates the conclusion reached by the NCRL, 1991 (Ministry of Labour 1991a and b) and the NHRC Expert Group that there is still a sizeable incidence of bonded labour in agriculture in several parts of the country (NHRC, 2001). These bonded labour relationships are embedded in socio-economic dominance of certain groups, but they also reflect the changing labour requirements of agricultural employers under the impact of capitalist development. Further, they often reflect the articulation between developed and backward agriculture.

Punjab's agriculture has been among the most developed in India. It has earlier been argued that the rise in literacy of SCs, their entry into services, higher aspirations and wage demands led to a decline in attached labourers from the local SC community and their replacement by migrant labourers from Bihar, initially from the tribal community in Ranchi. The process of recruitment was managed by contractors who had their agents in Ranchi. The recruited tribal labourers were confined locally and sold to their employers. Once employed, the labourers were kept in bondage (Singh, 1997). They were paid a pittance and had to pay interest on advances. Many, however, were compelled a second time to return to Hoshiarpur through the contractors. The system of bondage is considered (ibid.) to have registered a decline by the mid 1990s, due to a steady supply of immigrant labour and the role of voluntary organisations. But recent evidence has been accumulating before the NHRC, in the form of complaints of bondage among both local and migrant labourers filed by several organisations such as the Indian Social Institute and the Volunteers for Social Justice.[19]

The nature of bondage among local agricultural labour, mostly drawn from the low castes, has been highlighted by the VSJ. According to the submissions made by the organisation, the attached labourers in debt bondage in Punjab are known as *Siri*. They generally belong to the scheduled caste community and have no freedom to choose employment, to right of movement, to use village commons, etc; and endure long working hours. The cattleshed cleaners are usually the wives of the *Siris* and are in indirect bondage. The child assistant in agricultural work is known as *Pali*. Protests from the farm servants, including attempts to release them from bondage, have been met with physical violence and social boycotts in a number of cases. The organization estimates that there are about half a million agricultural bonded labourers and several hundred thousand people in bondage in brick kilns in Punjab. Of the nearly 2000 cases filed by the VSJ on behalf of bonded labourers, three-quarters were from the Malwa region of Punjab, followed by the Doab region (Singh, 2003, 2004).

Complaints of bondage are still received from Haryana, where attached labour relationships based on debt have earlier been reported. A Scheduled Caste bonded labourer was rescued from Fatehabad district by the Democratic Youth Federation after he was beaten brutally by the landlord and kept in chains (Rajalakshmi, 2001). His father had taken a loan from the landlord's family. Both the labourer and his wife worked long hours for the landlord without receiving any regular wage. The organisation has also reported a number of cases of bonded labour from other villages and districts of Haryana.

In the case of Western Uttar Pradesh, where the decline of traditional attached labour relationships had earlier been reported by Srivastava (1989), later studies have reported a system of recruitment of attached labour from Bihar and Nepal, with workers being kept under bondage, made to work for long hours and denied wages (Srivastava, 1999).

Tribals have long been subject to exploitative debt relationships in several parts of the country, resulting in bondage. According to some views, these practices have declined somewhat but there is still a high incidence of bondage among tribals in agriculture. A study of *Kol* tribals[20] in Halia Block of Mirzapur district of Southern Uttar Pradesh found that a number of tribals were indebted to the landlord, in some cases for more than one generation. The initial loans (taken for marriage or for some other purpose) were relatively small, but the tribals were unable to repay them because of their meagre wages and because eventual 'freedom' required repayment at high compound interest (60 percent annually). The bonded labourers could also be sold to other employers and the debt obligation was transferred. These labourers were paid a daily wage rate of about 2 kg of coarse grain and were given a tiny plot of land – about one seventh of an acre to meet their subsistence requirements (Shankar, 1996).

In the neighbouring district of Sonbhadra, the NHRC investigated a complaint from the South Asian Coalition on Child Servitude (SACCS) that eight labourers belonging to the *kol* community had been kept in bondage by an upper caste landlord and for two years had not been paid wages, which were ostensibly adjusted against advances. One of the labourers, who could not attend work due to illness, was beaten badly by the employer. The district administration, in its report to the Commission, said that four of the labourers had left the landlord because they were paid meagre wages and were beaten by him. The other four were still working with him but were paid a wage of only 2 kg of grain per day. The Commission directed that proceedings under the Bonded Labour Act and SC/ST Atrocities Act be initiated against the employer, and steps be taken to rehabilitate the labourers (NHRC Report 2001-02).

The NHRC took *suo moto* cognisance of a press report of a low caste bonded labourer in Palamau district of Bihar. The person had been working as a bonded labourer for 20 years for supposed non-payment of a loan of Rs 2,000, although he had in reality repaid the loan 15 years previously. The labourer had to work for over 16 hours a day and was paid a daily wage rate of Rs 10, although the prevailing wage rate was Rs 60.[21] Several other cases of bonded labour in agriculture, in some cases intergenerational bondage, have been reported from Patna, Nalanda, Bettiah, Gaya and other districts of Bihar.[22]

Case studies collected by the National Labour Institute in Chittorgarh, Rajasthan, revealed a number of cases of tribal (*Bhil*) labourers working for landlords in lieu of advances taken by them to cover expenses of marriages, illness etc. In all such cases, the labourers were not paid any specified wage, but only given meals and some perquisites (Upadhyay, 2000).

The *kamia-malik* system of debt bondage is reported to be prevalent in the erstwhile districts of Raipur and Raigarh in Chhatisgarh State. The *kamia*, a male farm servant, along with his family members, is liable to provide labour in the home and farm of the *malik* (the master) till his debt is cleared. Although under decline now, the system continues to exist even today (CEC 2004, p. 29; Sen 1995).

In the state of Madhya Pradesh, cases of bonded agricultural labour came to light in Harda (an area where agriculture is rapidly developing due to profitable oilseed cultivation) and adjoining districts, when a local NGO took the initiative (on the plea of relatives) to get the labourers released. The system again involves the repayment of a loan through labour but the wages are so meagre that the labourer remains in bondage. Moreover, if freedom is desired, the employers charge a high rate of interest. Although some labourers have been released under pressure from the NGO, their rehabilitation had not taken place (Noronha, 2003; Menon, 2003). Cases of Lahiri and Krishna (2000) have touched upon the system of *Bhalua* existing in parts of Midnapur district in West Bengal. The *Bhalua* remains in debt bondage because of low payments/earnings.

In a survey carried out between 1988-1995 in 48 of the 174 sub-districts of Karnataka State, an NGO - JEEVIKA - identified over 18,000 bonded labourers, and submitted individual petitions for rehabilitation for more than 16,000. JEEVIKA acknowledges that the Government of Karnataka has been more active than any other state in identifying and rehabilitating bonded labourers. Nevertheless, it had identified only 2,866 bonded labourers in Karnataka between 1979 and 1992.[23] A rapid appraisal study carried out for the ILO Social Finance Programme in four districts of Karnataka, found that bonded labour relationships existed because of caste-based dependence or because of the traditional loan-based practices of *Jeetam* or *bitti chakri,* involving the pledging of labour of an adult and his spouse, or a child against a loan taken from the landlord/employer. The repayment conditions were in conformity with market rates and minimum wage legislation in a very small number of cases (ILO, 2002b).

The Tamil Nadu Commissioners' Report (1995) concluded that the districts of South Arcot, undivided North Arcot, parts of Nagal as well as parts of Coimbatore and Dharmapuri account for a majority of bonded labourers in agriculture in the State. The study has used the Gandhi Peace Foundation estimates (6% of agricultural labourers) to estimate that about 475,000 labourers could be bonded. A considerable proportion of the bonded labour force are children pledged against a loan at an age of 8 to 9 years. The Report notes that bondage in agriculture was a result of debt obligations arising in a context of decreasing employment opportunities inside and outside agriculture.

A survey carried out by the Deccan Development Society in Medak district of Andhra Pradesh reported 533 children and 783 adults (both male and female) in bondage in only 55 villages. This bondage was reported to be a new phenomenon arising from the economic vulnerability of households in a drought prone and ecologically fragile region. The labourers, who had taken advances from their landlords, earned wages which were 50 to 90% less than the statutory minimum, and toiled from 12 to 14 hours a day. Children received a pittance for their work (Rao, 1997). A survey conducted in Rangareddy district for the ILO (ILO, 2002a), among released bonded labourers and other categories of households, found that 3.6% of the households were attached farm servants (called *Jeetam*) of whom 82.5% were indebted to their employers. The *Jeetam* was required to work about 12 hours per day on average, was paid less than the minimum wage, and his wife was at the beck and call of the employer and was paid half the minimum wage. The loans from the employer carried an annual interest of about 30 percent. Among the released bonded labourers, 24% were intergenerational farm servants. There are other reports of a fairly high incidence of debt bondage among agricultural labourers in the drought prone districts of Telangana and Rayalseema.[24]

There is some evidence from Andhra Pradesh that male labour outmigration, tightening of the labour market and issues of labour control were resulting in a greater feminization of bonded labour.[25] On the basis of their study in Chittoor district of Andhra Pradesh, Corta and Venkateswarlu (1999) find that agrarian capitalists have reacted to labour market tightening through tightening control in credit, land rental, product (commission buying) and labour (tying) markets. Under the tied labour arrangements, they extend credit and/or garden plots of irrigated land to labourers on condition that they provide labour at lower than market wages. During the period under study (1970 to 1995), tied labourers increased from 32 to 40 percent. Almost all capitalist farmers had one or two labourers, tied either through loans or through leasing out of half-acre paddy plots under half-half sharecropping arrangements. In the case of loans, labourers were expected to repay their loans through work at low pre-determined wages, while also having to perform several unpaid tasks. In the case of sharecropping, the labourers had to work at wages which were not pre-determined but were lower than market levels. These tied labour arrangements involved more women then men which, according to the authors, could be due to employers turning to a labour force which could be more easily disciplined.

The bonded labour system continues to persist in parts of Maharashtra. Nine bonded labourers were rescued in Thane district by an organisation *Shramjeevi Sanghatana*, in April 1998.[26] The organisation has estimated that there are still several thousand bonded labourers, mostly from Scheduled Tribes, in that district alone (CEC, 2004, p. 53). However, it has been noted that the nature of bondage had changed, with intergenerational bondage giving way to bondage for limited periods – generally of 1 to 3 years (ibid.).

A preliminary report to the Supreme Court on bonded labour in Maharashtra gave details of the use of migrant bonded labour to harvest sugarcane. It is estimated that 600,000 bonded labourers (of which over 70 per cent are from Scheduled Tribes) are employed by approximately 130 factories from which they receive an advance through a labour contractor. The contractors provide loans at exorbitant rates of interest which keep the labourers in a perennial state of debt, forcing them to return to the sugarcane fields year after year, usually with the same contractor.[27]

In the absence of detailed micro studies, few generalisations can be made. However, from the evidence that is available from a large number of States, it appears that agricultural bondage still has strong roots in the traditional and colonial systems of exploitation of tribal and low caste labour. But the nature of bondage has been undergoing changes with changes in the pattern of production and labour use in agriculture, and with higher labour mobility. Large employers, in several parts of the country, have tried to adapt and modify systems of bondage to meet their new labour requirements. These changes have occurred in dryland agriculture, as well as in commercial, capitalist and modern agriculture.

5.2 Bonded Labour Systems among Tribals

The Scheduled Tribes belonging to Orissa, Chhatisgarh, Harahan, Madhya Pradesh, Southern Uttar Pradesh, Uttaranchal, Andhra Pradesh, Maharashtra, Rajasthan and Gujarat, who have suffered a gradual erosion of access to traditional livelihood systems, have long been subject to exploitative debt relations leading to loss of land and bondage to non-tribals. The National Commission on Rural Labour devoted some attention to this issue.

Prasad (2001) has reported that in Dakshin Kannada and Udupi districts in Karnataka, the *Koraga* tribal community of nearly 10,000 people suffers under a system of bondage called *Ajalu*. The Malekudiya tribal community in Belthangady Taluk of Dakshin Kannada district has been held in the plantations of the masters called *Hebbars*. The community is denied mobility or the freedom to have their own gardens which could give them some economic independence.

In Orissa, a survey by the NGO Action Aid and twenty other organisations in Malkangiri district, carved out of Koraput, identified 704 bonded tribal labourers. The organisations concluded that there were possibly thousands of tribals from thirteen different tribes working as bonded labourers to landlords in the district (Mander, 2003). The tribals, who had lost most of their land to non-tribals, lived on the brink of subsistence and had no option but to take loans from landlords. In exchange, they or their children were required to work for the landlords for little more than food and some other minor perquisites. Their low wages were adjusted against the interest on the loans they had taken.

The NHRC examined a number of complaints regarding the status of *Kol* tribals in the districts of Chitrakoot (Madhya Pradesh), Allahabad and Mirzapur (Uttar Pradesh). These have stated that due to dispossession from land, loss of rights to forest produce, illegal quarrying and control of mafias over mining, the *Kols* were living in bondage and were denied minimum wages. Many of these complaints were upheld by the Commission, which also took the view that the existing system of auction of mining rights, which gave a virtual monopoly to dominant economic interests and prevented tribals from bidding through their self-help groups (SHGs), was totally unjust and led to the exploitation of the tribals (NHRC Annual Report 1999-00).

The NHRC set up an Expert Group in 2000 to examine the problems of the *Kol* tribals and to develop measures for their social and economic upliftment. According to their Report (NHRC, 2000), the system of bondage was widespread in the Shankargarh silica and sandstone mining region of Allahabad. The silica lease rights for 6 villages were placed with one feudal landlord who mined the area both legally and illegally with the help of contractors. Although a large number of bonded labourers had been released after the promulgation of the Bonded Labour System Abolition Act, very few had received rehabilitation grants. The system of bondage still persisted in the area. In some villages, SHGs formed by tribals had been given sandstone mining rights, leading to a tripling of their income (Roy, 2000; NHRC, 2000).

A system of slavery was prevalent among many tribes of Arunachal but has disappeared from most of them. However, it has recently been reported that the system continued among the Bangni and Miji tribes of East Kameng district. The Bangnis have slaves from their own community as well as from the Sullong (Puroik) tribe (Mishra 2001, Thakur 2003). A comprehensive survey, carried out under the orders of the Supreme Court in 1997, identified 3,542 bonded labourers mainly belonging to the Sullong tribe (Mishra, ibid.). The Sullong are in a primitive state of development compared to other tribes in the district. Although settled dwellers practising *jhum* (shifting) cultivation, they spend considerable time in food gathering.

Their staple foodstuff is obtained from the wild Sago palm. The Sullongs are customary slaves who are not in debt to their masters, but whose land and homestead are owned by the masters. They live in distant villages and remain at the beck and call of the masters for whom they also perform domestic service. The masters pay a bride price for the marriage of the Sullong boys and this is used to justify the bondage.

As per the direction of the Supreme Court, the State government appointed a High Powered Committee. Each of the Sullongs identified became entitled to a release certificate and Rs 1,000 as a subsistence allowance. However, because slavery is so woven into the cultural fabric of society, and because the Sullong have no land or homestead, the Committee felt that traditional rehabilitation schemes were not likely to succeed. The Committee therefore proposed alternative methods to the Labour Department.[28] However, the NHRC received a complaint from the All Puroik Welfare Society that the release of bonded Sullongs existed only on paper, and that most of them continued to work with their masters. It was also pointed out that several public Servants, high officials and even a Minister were keeping Sullongs as bonded labourers.[29]

5.3 Brick Kilns

Brick kilns operate in rural areas throughout the country, for six to eight months a year. There are varying estimates of the number of workers in the industry. The National Commission on Rural Labour estimated that there were about one million workers but according to the All India Brick Kiln Manufacturer's Association, its membership extends to 22,000 units with about 3 million workers. There could be as many as 50,000 brick kilns in all, employing about 100 workers each as per the muster rolls (Ghosh 2004, Gupta, 2003, Ateeq and John, 2003). The estimated number of workers would then conservatively be 5 million (since women and children are not included on the muster rolls). In Punjab state alone, there were an estimated 130,000 workers in about

2,500 brick kilns (Ateeq and John, 2003). According to one study, there could be 3 million workers in kilns around Delhi and in the adjoining States alone (Gupta, 2003).

The pattern of labour recruitment in the brick kilns, and the mechanisms of deployment, payment of advances and wages bear a striking similarity across the country. Recruitment is almost entirely through middlemen (known as Jamadars or Sirdars in the brick kilns around Delhi), based on a system of advances. There are distinct processes within the brick kilns, giving rise to a segmented workforce including moulders, loaders, stackers, firers and removers. The wage payment systems are different for different processes and the labour contractors are usually paid a commission through an informal deduction from the labourers' wages (Ghosh 2004, Gupta 2003). Workers are paid a part of their wages during the employment period on a weekly basis, with the remainder being adjusted at the end of the season. This binds the worker (and her/his family) to the kiln during the season, whereas the carry-over of advances from one season to the next ensures their availability for the next season. The work usually entails long working hours and very low payment. In a number of cases, a high degree of coercion is used to discipline the workers and to curb protests against breach of contract, which are very common.

A recent study of 499 households from 76 brick kiln units in the Gautam Budha district of Uttar Pradesh, near Delhi, brings out some of the features of labour relations in the brick kiln industry (Ghosh, 2004). The study reported that both recruitment of labour and its deployment were based on a system of advances, controlled by contractors who were paid on a commission basis deductible from the workers' wages. In a significant proportion of cases, the debts were carried over from one season to the next, with the contractors acing as informal guarantors of the loan.

The workers were mostly migrants from Eastern Uttar Pradesh, Bihar and West Bengal. Women and children were not placed on the muster rolls. Wages were adjusted at the end of the season with the workers receiving a portion of their wages at the end of each week or fortnight. Workers exiting to other kilns could have their debts transferred to the new employer who redeemed the debt to the first employer. Working and living conditions in the brick kilns were very poor and there was a near total absence of any regulation, with none of the labour legislation being implemented. The brick kilns were heavily guarded and restrictions placed on workers' movements. Wage rates were very low, but nevertheless above the legal minimum, which had not been revised for several years. An ILO study of two brick kilns around Delhi reaches similar conclusions. The system, according to the author, was akin to forced labour (Gupta 2003).[30]

Ateeq and John (2003) report the findings of another survey of 6 medium sized kilns, employing 130-150 workers, in three districts (Ludhiana, Sangrur and Moga) of Punjab, carried out in 2000. Most of the workers were from Bihar and Uttar Pradesh and 85% belonged to the SC. Landlessness was a major cause of migration. Seventyone percent of the workers were in the 15-35 year age group. In many of the processes, the entire family worked in the kilns, and there was intense competition between owners to secure labour. Workers were recruited from their villages by the *Jamadar* under informal contracts. During the monsoon period when the kilns closed, these workers were unemployed and had to borrow from local money-lenders at high interest rates. The advances received from the *Jamadars* helped them repay these debts and brought them back to the kilns each year. It was found that about 53 % of the workers had accepted *peshgi* (advances). The brick moulders (*pathers*) mostly belonged to the SC, were landless and were the most vulnerable to debt. The workers were not covered by any of the Inter State Migrant Workers (ISMW) Act provisions. They were not paid for the initial 15-20 day period when they were required to clean the land nor for periods of sickness or for unanticipated work stoppages.

The 1995 survey of bonded labour by the Commissioners of the Supreme Court found a similar picture in the Southern State of Tamil Nadu. In Pudukottal district alone, the survey estimated that 80% of the 25,000 workers were bonded.[31] The persistence of bonded labour in this industry in Tamil Nadu is shown by the fact that 47 bonded labourers were released from two brick kilns in Kancheepuram district of Tamil Nadu in 2003.[32]

In the last several years, a number of cases of bonded labour in brick kilns have been reported from the States of Punjab, Haryana, Delhi, Uttar Pradesh, Madhya Pradesh, Andhra Pradesh, Tamil Nadu and Karnataka. Most of these labourers are from the Scheduled Tribes or Scheduled Castes and are migrants.

The NHRC gives details of a complaint related to unlawful confinement and exploitation of 58 SC labourers, 19 of whom were below 18 years of age. They were employed as bonded labourers in a kiln in Aligarh district of Uttar Pradesh. The contractor initially offered to pay a wage rate of Rs 130 per thousand bricks to the brick moulders and took them to the kiln after paying them an advance. Later, he decided to pay them only at the rate of Rs 100, after deducting an unspecified amount on account of the advance. When the workers protested, private guards restricted their movement and they were beaten and abused.[33]

In another incident, at a brick kiln in Gautam Budha Nagar in Uttar Pradesh, near Delhi, 180 bonded labourers (53 men, 36 women and 91 children) were rescued in February 2000.[34] The condition of the workers came to light when one of the women workers was raped, and her husband and a child were killed in gunfire by the employer and his henchmen when they resisted. The workers were prevented from leaving through threat and intimidation. The employer retained more than half their wages and gave them only a small sum for subsistence.

The *Bachban Bachao Andolan* activists, together with the district administration, rescued 70 workers from 39 families from a brick kiln in Moradabad district in Uttah Pradesh. The workers were scheduled castes from Chhatisgarh State who had been lured by middlemen through advances and on promises of a good wage and good working conditions. The workers were paid Rs 100 per week plus a ration of 8 kg of rice for the entire family, and were beaten up and threatened if they raised their voice about their wages.[35]

In Ferozepur district in Punjab, 69 workers were released from a brick kiln on the initiative of an NGO, Dalit Dasta Virodhi Andolan, and the district administration. The workers were only paid petty sums and no records of their employment, wages or advances were kept by the employers who, however, insisted on repayment of debt when the labourers wanted to leave.[36]

Forty-seven labourers were released by the police from a brick kiln in Baghapurana sub-division of Moga district in Punjab. All of them stated that they had not been paid their salaries for the last four months and were not allowed to leave the kiln. The raid was conducted following a writ petition in the Punjab and Haryana High Court by two labourers.[37]

One hundred and three bonded labourers belonging to 21 families were released from the brick kilns of Dadri and Bhiwani (Haryana State) in 1997 (Chaman Lal 2003). According to one report, bonded labour in the brick kilns of Haryana was mostly found in the districts of Sirsa, Karnal, Kurukshetra and Jajjhar, involving SC and other low caste migrants from Uttar Pradesh, Bihar and Rajasthan. Unionisation in about 60% of the kilns had brought down the incidence of bonded labour in Haryana (CEC, 2004, p. 33).

In May 2001, the Himachal Pradesh High Court ordered the release of 35 bonded labourers from 18 families from Saharanpur in Uttar Pradesh working in a brick kiln in Sundernagar district of Himachal.[38] In February 2002, 15 bonded labourers were freed from a brick kiln in Jaipur, Rajasthan (NHRC Annual Report, 2002-03). Ninetynine men, women and children were rescued by district authorities from a brick kiln in Alwar district in January 1999 (CEC 2004, p. 58).

The People's Union for Civil Liberties (PUCL) Bulletin of June 2002 reports the release of 46 bonded labourers, aged 7 to 60, all local Musahars from a brick kiln owned by a powerful person in Phulpur sub-division of Varanasi district in Eastern Uttar Pradesh (People's Vigilance Committee for Human Rights, 2002a). According to another report in 2002, 33 labourers from Malda district in West Bengal were compelled to work in a brick kiln in Varanasi district of Uttar Pradesh at wages which were much lower than promised. Their womenfolk were allegedly raped by the musclemen and contractors of the kiln owner, and the workers were threatened with dire consequences if they protested. Thirteen of the workers fled to another brick kiln but were assaulted by the musclemen of their former employer. The workers were finally released by the administration as a result of the efforts of local people and an NGO, the People's Vigilance Committee for Human Rights, were given release certificates and sent back to Malda by the district administration (People's Vigilance Committee for Human Rights, 2002b).

Bonded migrant labourers in brick kilns have been reported in Danapur and Kishanganj districts of Bihar (CEC, 2004, p. 27). Migrant workers from Kalahandi, Bolangir, Koraput, Gajapati and other districts in Western Orissa migrate through middlemen, from whom they take advances, to work in brick kilns in other districts of Orissa or in Andhra Pradesh. Their advances are adjusted against a notional wage rate, such that when the workers return home (with small sums of cash), they are still in debt to the contractors or kiln owners, whom they have to repay the next season (Chakravorty, 2004).

In almost all the regions for which evidence has been discussed here, brick kilns rely primarily on recruitment of migrant labour through contractors, based on a system of advances which matches the cash needs of labourers from the poor regions. It is not unusual for the labourers to use the cash advances to settle their debts at home. Once labourers are recruited, various devices such as the use of force, recurrent loans, and one-time settlement of payments are used to tie the workers to the kilns for the season. Wage rates are usually low, given that in processes such as moulding and carrying bricks, entire households are involved. The local influence of the brick kiln owners, the remoteness and rural location of the kilns and weak regulation lead to the nonimplementation of labour laws. There are nonetheless some State-level variations in the situation. Existence of strong trade unions may have led to a decline of bondage in a few States. But overall there is inadequate information on the variation between States and its causes.

5.4 Stone Quarries, Crushers and Mines

The Study Group on Bonded Labour for the National Commission on Rural Labour reported a high incidence of bonded labour in stone quarries and crushers, sandstone, marble and slate mines in a number of States including Haryana, Uttar Pradesh, Madhya Pradesh, Rajasthan, Karnataka and Tamil Nadu (Ministry of Labour 1991b).

Bondage in stone quarries in the areas around Delhi became a matter of intense legislative scrutiny after the early 1980s, when the *Bandhua Mukti Morcha* filed its landmark case in the Supreme Court. The Supreme Court appointed two Commissioners, Dr. Mahaveer Jain and Dr. Lakshmi Dhar Mishra, to investigate the condition of bonded labour in the industry in Haryana and also gave a number of directives to eliminate the practice and to rehabilitate the labourers. However, bonded labour continues to be reported from the quarries around Delhi.

In 1999, the NHRC received a complaint from the *Bandhua Mukti Morcha* that 20 persons (men, women and children) were kept as bonded labourers in a stone quarry in Gurgaon, Haryana. Although the district administration admitted that minimum wages had not been paid to them, it did not concede that it was a case of bonded labour. The labourers had been given some wage arrears and had been dispatched to Rajasthan. The Commission's own enquiry showed that 29 persons including 10 children were living in the open near Jaipur city in Rajasthan. They belonged to the *Banjara* nomadic tribe and had gone to Haryana in 1994 to market their produce.

While they were there, a contractor for a stone quarry offered them attractive wages for work in the quarry. After a year they were denied wages and, in lieu of wages, arrangements were made with a local merchant to supply them daily rations on credit. When they objected and demanded wages, they were kept confined to their dwellings. In 1999, they somehow made contact with the NGO. Only after the NHRC pursued the matter were the bonded labourers given release certificates by the Haryana government.[39]

The *Bachban Bachao Andolan* reported rescuing 101 bonded labourers (men, women and children) from a quarry in Charki Dadri in Haryana. Some of the bonded labourers had been working in the quarry for over three decades.[40]

The State of Rajasthan is the second-most mineral rich state in the country, earning more than $190 million annually from the mining sector. Marble, limestone and sandstone are the highest revenue-earning minerals. Employment in mining in Rajasthan is second only to agriculture, providing work to more than 3 million workers, of whom 95% are from Scheduled Castes and Scheduled Tribes. Around 37% are women and 15% children (Mine Labour Protection Campaign, 2001).

The mines are operated on leases from government and are small-scale, localized enterprises worked entirely by manual labour; the mining practices are unscientific and primitive. Illegal mining is rampant, with contractors operating on expired leases, leases in the names of other persons (known as the *benami* system), and mining in areas not covered by their leases. In August 2000, the Mine Labour Protection Campaign (MLPC) carried out a random sample survey in the sandstone mining belt in the Jodhpur area in which approximately 70,000 workers are employed and which contributes approximately US$ 3.3 million to the state economy annually. A number of leases have been granted to low caste lease holders but are actually operated by dominant persons from the area.

The leases are broken up into small parcels, each mined under the supervision of a piece-rated worker who has a group of family-based time-rated labourers working under him. A small percentage of labourers come from the villages in the mining area, but the vast majority are migrants who retain links with their areas of origin, since the mines function for only about eight months in a year. The system of advances is widely prevalent, and both categories of workers borrow from the lease operator or the supervisor. The daily wage workers are paid a pittance and female labourers are paid around half of what the men receive. There is also a significant incidence of child labour (Wazir, 2002; CEC 2001a). The Mine Labour Protection Campaign survey showed that 97% of sandstone mineworkers in Jodhpur are indebted, a majority of them being in bondage. The debts are passed on from one family member to another, or from one generation to the next, and can cause the labourer to be 'sold' to another contractor (Mine Labour Protection Campaign, 2001).

The National Commission on Rural Labour (1991) had identified slate mines and stone quarries in Madhya Pradesh as having a high incidence of bonded workers. Recently, a complaint regarding the existence of 400 bonded labourers in the Chola mines (quarries) in Gwalior district of Madhya Pradesh was made by Prof. Sheotaj Singh of *Bandhua Mukti Morcha*. The district administration initially denied the report but, on the intervention of the NHRC, 44 bonded labourers were released from the mines in 2003 and sent to their homes in Guna and Shivpuri districts. The employer was prosecuted under the BLSA Act and SC/ST Atrocities Act and a rehabilitation package was given to the released labourers. The workers' testimonies stated that they were denied wages; instead, the contractors issued them with paper coupons to purchase essential supplies from shops designated by the employers.[41]

The condition of quarry workers in Karnataka came to light following the release of five workers from a quarry in Srirangapattana Taluka of Mandya district, who were made to break stones with heavy chains around their legs. Most of the workers in this quarry were from other districts of Karnataka or from Andhra Pradesh. They included sixteen children who were paid wages of Rs 10 per day. The labourers had taken paltry advances of Rs 500 to Rs 2,500 and were paid only about half the designated minimum wages. The labourers' advances carried compound interest rates and there was hardly any prospect of repayment. Heavy fines were imposed for any kind of absenteeism and workers were subjected to corporal punishment. All the workers belonged to the *Bhovi* community, a low caste community specialising in stone breaking, the majority of whom spent their lives in bondage in quarries. The chained workers were released through the efforts of the Karnataka State Farmers' Organisation (*Karnataka Rajya Ryota Sangham* or KRRS). It is noteworthy that district officials had not reported the existence of any bonded labourers in the district and had overlooked the illegal quarrying of this mine (PUCL Bulletin, June 13, 2000; Sreedharan and Muniyappa, 2000; Chamaraj, 2000).

The Tamil Nadu Commissioners' Report (1995) reported large-scale bonded labour in quarries, both within and outside the State. The survey reported long-distance outmigration from the districts of Salem, Dharmapuri, dry parts of Thiruvannamalai, Samuvaryar, North Arcot and so on. Many labourers migrated to Gujarat, Madhya Pradesh, Andhra Pradesh and Karnataka to work in quarries, while several thousand also out-migrated from these districts to work elsewhere in Tamil Nadu. The survey estimated that 750,000 labourers worked in the quarries of Tamil Nadu, about twothirds of whom were bonded, including entire families. The Commissioners' Report traces the origin of bondage in the quarries to the introduction of the public auction system in the 1970s, and the mechanisation of stone crushing which forced the workers to work longer hours for lower wages. In the quarries, the contractor or the sub-contractor advances money to the labourers, and supervises the gravel production. Apart from the element of debt, the workers are provided accommodation in the quarry and have limited mobility. They can only change employers if the new employer is prepared to meet their existing debt obligation. Constant watch is kept over them so that they cannot mix with other labourers.

Extensive granite, stone and other quarrying sites are found in the districts of Guntur, Rangareddy, Warrangal, Vishakhapatnam and Nellore in Andhra Pradesh (CEC, 2004). A large number of workers, mostly migrants from Orissa, Tamil Nadu, Rajasthan or other districts of Andhra Pradesh work in stone and other quarries and mica mines under conditions of bondage. As studies from Orissa and from Mahboobnagar district in Andhra Pradesh testify, these workers take advances from traders and money lenders in their home villages in order to tide over lean periods or to meet financial emergencies. These are then squared off with advances from labour

contractors who hire them to work in quarries and mines. There, they are paid a fraction of their promised wages, the remainder being adjusted towards their advances or retained by the employer till the end of the season. A vicious cycle of debt is thereby created, which obliges the workers to return to work in the mines year after year (Subrahmanyam, 1985)

Within the mining industry, women's labour is marginalised, being concentrated in small mines where the labour process is dominated by contractors, and bondage and exploitation are high. Women are forced to take up physically arduous and exploitative work as men lose employment due to mine closure and mechanisation. They are often subject to sexual exploitation or turn to prostitution to make ends meet (Mines, Minerals and People, 2003).

5.5 Power looms and Cotton Handlooms

Labour bondage has been reported in handlooms and power looms in different parts of the country, especially from Tamil Nadu and Andhra Pradesh.

CEC (2004, p. 19) has reported on the basis of interviews that there are several thousand weavers who are bonded to the master weavers in the districts of Prakasam, Guntur, Krishna, East Godavari, West Godavari, Vijaynagram, Srikakulam, Medak, Nalgonda, Warrangal and the South Telanagana region districts of Nellore, Chittoor, Kurnool, Anantpur and Cudappa of Andhra Pradesh. John (1996) has reported on the bonded labour system prevalent in Chirala in Prakasam district of the State.

The Tamil Nadu Commissioners Report (1995) noted that cotton handloom and powerloom labourers were spread all over the state. About one-third of the weavers were in the fold of the co-operatives. However, whether the master weavers take yarn from the merchants or the co-operatives, the work was done by weavers who were bonded. The *pattaria* owners advanced money to the weavers who could not change employers unless they repaid the loan. Most of the workers were from the scheduled caste community. The weavers' wages were less than the prevailing wage rate. The report estimated that there were 3 million looms in Tamil Nadu and several thousand bonded weavers. On 19 November 1997, acting on the petition of a bonded worker, the Madras High Court directed the district authorities of Erode District to secure the release of 450 handloom workers. The workers, whose movements were restricted, were paid a paltry wage and were required to work 18 to 22 hours a day.[42]

The powerlooms are concentrated in Periyar, Salem and Coimbatore districts of Tamil Nadu. The weavers are bonded to the loom-owner mainly due to their debt. In some cases, the weaver's children also work under bondage.

Neve (1999) has studied labour relations in the town of Kumarpalayam in Tamil Nadu. The Vaiiar Gounder community which entered the industry in the 1970s uses a system of hefty advances (*baki*) to secure labour, both male and female. The labour is referred to by the labourers themselves as bonded. Although large advances sometimes carry an element of implicit interest, by and large, wage rates are not influenced by the practice of advances and workers can seek to change employment on repayment of the debt. Neve notes two features that make this akin to a bonded labour system. First, the advances were typically large, so that labourers could not ordinarily repay them. Second, employers used other stratagems, including physical coercion, to ensure that labourers are disciplined and remain with them.

The issue of bondage in powerlooms has emerged very starkly in the interim report of the Special Rapporteur, Mr K. R. Venugopal, in NHRC case no. 3728/96-97, based on the complaint of a worker and her husband against two employers, the former having been sexually assaulted by one of them. The Report says that the two employers in their statement have confirmed that advances are paid to each and every worker "to keep the workers bound to their powerlooms". There is also the practice of giving workers "loans" as distinct from advances which, the employers claim, are given without interest and can be repaid in two-three years. However, in the Rapporteur's view, "these employers had institutionalised a system of bonded labour based on advances to the needy workers – a bondage that never ended for 90% of them since 90% of them had to exchange the bondage to the current employer for the bondage to the future employer. This is permanent, institutionalised slavery." Employers have admitted this in some of the cases.

5.6 Bonded Labour in Other Sectors

Construction: Labour in large public works and construction sites is often organized through middlemen and contractors, leading to well-entrenched systems of advances and resulting in bondage. The case of contract labour from areas around Mahboobnagar district in Andhra Pradesh (often called *Palamuuru* labour) has drawn the attention of a number of scholars. Olson and Murthy (2000) surmise that nearly 150,000 labourers seasonally migrate from this district, of whom nearly 50,000 are bonded. In a survey of contract labour households in 1991 and 1994, they find that these labourers, who hail from landless or small farm households in an endemically drought prone and unirrigated region, increasingly rely on advances and loans from *maistries* (contractors) who procure their labour for construction companies on public works sites. The workers work for about 12 hours each day, and are paid a small wage which is adjusted against advances and loans at the end of the 8 to 9 month contract period. During this time, they are provided food for themselves and their dependents, a packet of *bidis* and hair oil (all adjusted against wages). Women labourers not only have to hand over the advances to the men folk, but are also sometimes subject to sexual exploitation at the sites. There have been sporadic reports of bonded labour in the construction industry in several other places.[43]

Plantations: There have been reports of bonded labour in commercial agricultural systems such as plantations and floriculture. Some of these (e.g. lemon plantations in Andhra and tribal labour in the Karnataka plantations) have been discussed in earlier sections of this paper. The Tamil Nadu Commissioners' Report (1995) found that migratory labour in cardamom plantations was often bonded. In some of the other plantations (rubber, pepper and nutmeg) the condition of bonded labour, numbering several thousand, was found to be acute. The Report also found that in the floriculture industry, a large number of children were engaged as bonded labour on payment of very low wages.

There are also references to bondage, lack of rights and non-payment of minimum wages among tribal labour originating in Central India in the tea plantations in Assam (Lahiri 2000).

Gem Cutting: According to the Tamil Nadu Commissioners' Report (1995), around 100,000 workers are engaged in this industry in Tiruchi alone. Of a total of around 160,000 workers, an estimated 100,000 are thought to be in bonded labour. These workers take advances from the producers or the middlemen and are paid 50-60% of the market wages. The bonded workers are not allowed to work for other employers.

Rice Mills: More than 1000 families were reported to be working as bonded labourers in the rice mills in and around the Red Hills area near

Perambur in Tamil Nadu (Kannan, 2001). These families were immigrants from other districts of Tamil Nadu, having been lured to work in the industry against advances of Rs. 5,000 or more. Once the loan is taken, the debt burden increases as the interest accumulates. Successive generations of the family fall into the debt trap and remain within their cramped quarters in the courtyards of the '*nerkalams*' (rice drying units). In a number of cases, the labour of children is pledged against the debt (Meir, 2001; Kannan 2001). The rice mills of Dhamtari district of Chhatisgarh mainly employ tribals from Bastar district. The labourers are paid a small wage, work for 12 to 13 hours, and are kept confined to the premises of the mill (CEC 2004, p. 31).

Bidi Workers: Bondage among bidi workers, who are predominantly women and children, has been reported from Andhra and Tamil Nadu. According to the Tamil Nadu Commissioners' Report (1995), there are about 750,000 workers in the bidi rolling industry in that State, mainly women and children. The system of bondage is widely prevalent in North Arcot district. Children and women are in bondage to the bidi agents who advance money to them; in many cases, the entire family is bonded. The workers are employed in small decentralised units, which are either their homes or small factories, through the agents. Pledging of children against loans is also commonplace in North Arcot in this industry. In Andhra Pradesh, women and children bidi workers in the districts of Srikakulam, East Godavari, Guntur, Nellore, Cudappa, Chittoor, Warrangal, Karimnagar, Adilabad and Nizamabad work under conditions of bonded labour. They remain indebted to the contractors and are paid less than the minimum wage (CEC 2004, p. 23). Bidi workers in the Dhamtari district of Chhatisgarh also remain in the grip of contractors, who pay them a small wage after arbitrarily making deductions in the name of wastage, commissions etc. (CEC 2004, p. 33).

Fish Processing: Warrier (1998), in her study of women workers in the sea-food industry, described their employment under captive and bonded conditions in the cities of Mumbai, Tuticorin, Calcutta, Veraval, Porbandar and Mangalore, Goa and the coastal towns of Orissa and Andhra Pradesh (Warrier 1998; CEC 2004, p. 35). Twenty seven bonded Tamil workers were rescued from a fish processing factory in Porbandar, Gujarat in 1997.[44] CEC (2004) cites a Study Report compiled by the Ongole based *Samudra Theera Matsya Karmikula Union* (Sea Fish Workers Union) stating that women migrant workers brought from Tamil Nadu, Kerala and other districts in Andhra Pradesh have to work as bonded labourers in the sea-food processing industry. They are housed in the factory premises, and are paid a pittance after the deduction of the contractor's commission and charges for their food (CEC 2004, p. 23).

Silver Works: According to the Tamil Nadu Commissioners' Report (1995), the system of bonded labour in silver works involves both adults and children. Of the estimated 10,000 workers, about half are bonded.

Mat weaving: The Tamil Nadu Commissioners' Report (1995) shows that in Vandavasi taluk, there are 20 big and 36 small mat units in which all the labourers are bonded.

Salt pan workers: There are an estimated 100,000 to 300,000 salt pan workers in the coastal districts of Gujarat, mostly belonging to the *Koli* or other low castes and many others who are migrants from other states. They are bonded to the contractors to whom they sell their produce at an artificially low price (Ganguli, 2001; John, 2001). In Maharashtra, Prabhu (2001) reports that hunger during the lean season forces the salt pan workers to take loans from the *khatedar*, against a commitment that the labourer will work at half the prevailing wage.

5.7 Bonded Child Labour

There are a number of industries where children's labour is pledged against loans taken by their parents, and children have to work for long hours under intolerable conditions. Human Rights Watch (1996), based on a survey of 100 bonded children in five states (Rajasthan, Tamil Nadu, Karnataka, Maharashtra and Uttar Pradesh), has identified bonded child labour in a number of occupations including agriculture, brick kilns, stone quarries, carpet weaving, bidi rolling, rearing of silk cocoons, production of silk sarees, silver jewellery, synthetic gemstones, precious gem cutting, diamond cutting, leather products etc. These children are made to work against debt taken by their parents or guardians, at low or no wages, from a very young age. In a review of bonded child labour in India, Mehta (2001) has also brought out the extent of the problem in a number of sectors including carpet weaving, agriculture, bidis, silk, saltmaking, fireworks and matches, glass, silver works, gemstones, leather and brickkilns. There have been reports of bonded child labour in other industries such as circuses, fisheries, shops and tailoring establishments, and domestic work.[45]

Carpet weaving

The carpet weaving industry in India has had a very high incidence of child labour, including a sizeable proportion of migrant child labourers who work under the worst possible conditions of bondage. Estimates of the size of the problem vary. Moreover, the nature of the industry has changed rapidly since 1996 with a shift towards homebased production and production in new districts in the states of Uttar Pradesh, Bihar, Madhya Pradesh, and elsewhere. The old core districts of Bhadohi, Varanasi and Mirzapur in Uttah Pradesh still employ a very large number of workers. But the industry has now expanded to the districts of Allahabad, Kaushambi, Jaunpur and Sonebhadra. In addition, some new carpet-weaving districts in Bihar and Jharkhand are Garhwa, Samastipur, Palamau, Madhubani and Saharsa. These districts were areas from where migrant child labour was previously sourced for the core carpet weaving areas (Sharma 2002).

Estimates of the incidence of child labour and bondage in the carpet industry vary significantly. Juyal (1993) estimated that there were 350,000 child workers in the industry, almost two-thirds of all workers, whereas a study by Vijaygopalan estimated that child workers were only 8% of the workforce. Sharma (2002) estimated that child workers were about 19% of all workers, of which only girls were only 7%. Only 2.2 percent of the child workers were inter-district or inter-state migrants. Srivastava and Raj (2000) found that child labourers constituted 58% of the workforce in the woollen carpet industry in Eastern Uttar Pradesh and 30% of them were girls, but the percentage of inter-state migrants detected in this study was also small.

The identification and release of bonded child labourers, many from rural areas in Bihar and Jharkhand, is still frequently reported in the core carpet areas. Thirteen bonded children were released from a carpet factory. The South Asian Coalition against Child Servitude (SACCS) complained to NHRC that these children were kept in a children's home instead of being rehabilitated and sent back to their parents. It was found that the age of these children had been wrongly certified by the doctor in order to protect the loom owner, and they had gone back to work for him. It was only after the Commission's intervention that the release and rehabilitation of the children and action against their employer were initiated (NHRC Annual Report, 2001-02).

SACCS also released nine bonded labourers in two raids in the carpet belt of Uttar Pradesh. These child labourers had come from poor scheduled caste families in Saharsa, Darbhanga and Purnea districts and they or their parents had been duped by middlemen. They worked in inhuman conditions, were kept confined to a small, dark room, and were paid a pittance.[46]

In another case, the complainant, a member of the Legislative Assembly in Bihar, brought to light the case of two boys who were lured away by a local middleman to work in the carpet area of Bhadohi district in Uttar Pradesh. They were both made to work as bonded labourers and kept on a starvation diet. One of the boys was beaten so badly that he died and his body was disposed of by the loom owner in a gunny bag. The matter of compensation had not been sorted out between the two states and the full bench of the NHRC had been looking at issues relating to the release and rehabilitation of the bonded child labourers of Darbhanga.[47]

Since 1999, the NHRC has launched special initiatives to tackle the problem of child labour in the carpet belt. Steps include a census of all looms and workers in the area, and initiatives to rehabilitate the child labourers and their families and to educate the children.

Bonded child labour in the carpet industry is also reported elsewhere. Gani and Shah (1998) have reported a high incidence of child labourers in the carpet industry of Kashmir, many of whom work for their employers in lieu of wages taken by their parents.

Silk reeling and weaving

The Tamil Nadu Commissioners' Report (1995) found a high incidence of bonded adult and child labour in the silk weaving industry in Tamil Nadu. The silk weaving is organised through master weavers either in the cooperative sector or outside. The master weavers pay advances to weavers, who employ children as helpers. According to the Report, the weavers and the children are often bonded. There were an estimated 30,000 adult and 50,000 child labourers in silk handlooms alone.

Human Rights Watch (1996) has shown bonded children, aged 5 to 12, at work in every stage of the silk industry. These children work up to 12 or more hours a day for six and a half to seven days a week, under hazardous conditions, and are often beaten by the employers.

Human Rights Watch (2003) has documented large numbers of bonded child workers in the silk weaving industries of Karnataka, Kanchipuram district in Tamil Nadu and Varanasi district in Uttar Pradesh. Field investigations were carried out in March- April 2002. The Report estimates that 350,000 children are engaged in silk thread making and weaving, working nearly 12 hours a day. Almost all the children were from SC/ST or Muslims. Nearly all the children working on a hired basis were bonded. Others worked within families, themselves bonded.

The Special Rapporteur to the NHRC, Mr. K. R. Venugopal, has highlighted bonded labour in the silk reeling and twisting units in Magadi and Ramanagaram in Karnataka state.[48] In October 1998, 53 child labourers working in Magadi town were discovered during a surprise inspection. Each child or the parent had taken an advance of Rs. 10,000 to 25,000. The children were made to work for 12 to 14 hours a day and received only Rs. 2 to 3 as wages (CEC 2004, p. 48).

Hybrid cotton seed production

A recent survey (Venkateswarlu, 2003) estimates that of about 450,000 girls working in hybrid cotton seed farms, about half were bonded. The farms, both local and multinational, were concentrated in the Telanagana and Rayalseema regions of Andhra Pradesh. The labour force of local or immigrant girl workers, the latter recruited through middlemen and employed on a contractual basis (daily, monthly or seasonal), were at the beck and call of the employers. The parents were paid an advance in one or two instalments, and in some cases given loans with interest. The child labourers were required to work long hours and were paid less than prevailing wages. Seventy percent of the surveyed children had worked for the same employer in the previous year as well.

6. Elimination of Bondage: Nature and Scope of Interventions

The existence of bonded labour is an affront to basic human dignity. There has been some change in the nature and incidence of bonded labour in India as a result of various factors, including the impact of social change and social movements, economic modernisation and State intervention. While these processes have impacted positively on the unfree status of labour in traditional agriculture and in some other sectors, the incidence of bonded labour still remains high in some segments of unorganised industry, the informal sector and in the relatively modern segments of agriculture in some areas.

The Bonded Labour System (Abolition) Act created a legislative framework for the elimination of bonded labour in 1976. But, as both the Supreme Court and the NHRC have shown, its implementation by the States has generally remained weak.

The Supreme Court of India has, in a series of judgements, given directions to improve the situation and since 1997, under its direction, the National Human Rights Commission has been directly involved in monitoring the situation and making reports to the Court. In its order of November 11, 1997, passed in the writ petition No. 3992 of 1985 – PUCL vs State of Tamil Nadu and others, the Supreme Court has entrusted to the NHRC the responsibility of monitoring the directions of the Court issued from time to time and the implementation of the provisions of the Bonded Labour System (Abolition) Act.

The NHRC started monitoring the implementation of the Act in 13 states identified as Bonded Labour Prone states. These are: Andhra Pradesh, Arunachal Pradesh, Bihar, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh. The Commission has appointed two Special Rapporteurs, Mr. Chaman Lal and Mr. K. R. Venugopal, who have been constantly reviewing the situation in bonded labour prone states and sectors.

The Special Rapporteur in the Northern States has focused on the carpet belt of Uttar Pradesh consisting of the districts of Varanasi, Bhadohi, Mirzapur, Jaunpur, Sonbhadra and Allahabad, where most of the children employed are migrants from the state of Bihar and Jharkhand, working under extremely oppressive conditions against some petty advances paid to their parents. Their cases are invariably found to be attracting the provisions of the Bonded Labour System Abolition Act (Chaman Lal, 2003). The Special Rapporteur has also focused on the problem of *Kols* in the Pathar area of Uttar Pradesh and has held regular review meetings with officials in the States of Uttar Pradesh, Bihar, Madhya Pradesh, Haryana, Punjab and Rajasthan. He has also been assisting the Commission in monitoring and reviewing the situation in other North Indian States and in ensuring that rehabilitation of bonded labourers, especially migrant labourers, takes place on a long-term basis.

In the Southern states, the Special Rapporteur, Mr. K. R. Venugopal, has tried to move in a convergent direction by involving and influencing a number of departments and by including policy making within the ambit of his work. He has particularly highlighted the issues of bonded quarry workers in Karnataka and Andhra Pradesh and bonded labour in silk weaving and powerloom industries in Tamil Nadu. He has held regular meetings with officials in the States of Karnataka, Tamil Nadu and Andhra Pradesh.

The Special Action Group constituted by the NHRC and the institution of the Special Rapporteurs has breathed some life into the legislative system and has given support to the grass-root NGOs that have been involved in taking up issues of bonded labour. Further, in September 2000, the NHRC constituted an Expert Group headed by Mr S. R. Sankaran, to make an assessment of the Bonded Labour situation in the country, examine the extent and effectiveness of the Bonded Labour Laws and enforcement mechanisms and review the functioning of the Centrally Sponsored Scheme for the rehabilitation of the released labourers. The Commission has also constituted groups to study the problem of bonded labour and child labour in a number of areas, including the Kol tribals in Uttar Pradesh and the lock makers of Aligarh.

The identification of bonded labourers continues to present difficulties, and only a small number of bonded labourers are actually identified, almost always due to the persistent efforts of NGOs (NHRC Annual Report, 2000-01). But among those labourers who have been identified and released from bondage, the NHRC finds that the rehabilitation of migrant labourers is being totally neglected (Chaman Lal, 2003). This is also the view of the Supreme Court of India.[49] There can be no doubt that effective prevention of bondage amongst vulnerable groups and the rehabilitation of freed child and adult bonded labourers are complex issues, requiring sustained action from governments, NGOs and the international community.

The Ministry of Labour, Government of India had initiated a Centrally Sponsored Scheme under which Rs 4,000 was initially provided for the rehabilitation of each bonded labourer, to be equally contributed by the Federal and the State government. The amount has since been gradually raised, reaching Rs. 20,000 in May 2000. The Central government also provides assistance for surveys, awareness campaigns and evaluations. Released bonded labourers are given priority in a number of government programmes, such as the distribution of government land, and some States have initiated specific programmes for their rehabilitation. But, by and large, the process of rehabilitation is frequently delayed, particularly in the case of inter-state bonded migrant labourers, and the degree of concerted convergent action required on the part of the administration is rarely forthcoming. Prosecution of employers is also weak. Since the bonded labourers are very poor and assetless, some can relapse into bondage, while others may experience only a very marginal increase in income. Not being from an entrepreneurial background, bonded labourers may not be able to earn significantly higher incomes or even retain their assets (Mutharayappa, 2002). The National Human Rights Commission has been trying to make the states undertake rehabilitation of the bonded labourers through convergent action, and through helping the bonded labourers form groups or cooperatives which can take up economic activity on a sustained and viable basis. As discussed earlier, in Allahabad district, the Commission has supported the granting of mining leases to SHGs of Kol tribals and opposed a system of action which excludes these groups from bidding for the mining rights.

Since bondage results from severe deprivation arising from lack of assets and adequate livelihood opportunities, a key focus of rehabilitation has to be on providing assets and means of livelihood to the bonded labourers. Efforts to do this are more likely to succeed if the poor are empowered and collectively organised, and if they have the capacity to undertake new activities. Vidyasagar (2001) notes that the distribution of land to 44 bonded labourer families in Kodaikanal was successful because the labourers were given other infrastructural facilities and were supported in their endeavours by an NGO. More importantly, the labourers were used to cultivating land in a similar ecological setting. In another case, cited by Vidyasagar, bonded

labourers who were working in stone quarries in Pudukottai district were released by the district administration during the early '90s, which also took the initiative in rehabilitating them. The workers were organized into co-operative societies which were provided with quarrying contracts. The rehabilitation money was pooled together to purchase trucks for transportation. Women were given authority within the societies and provided proper training to enable them to fulfil their functions. The Tamil Nadu Government amended the rules under Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957, to allow the grant of stone quarrying leases to the released bonded labourers. This became one of the very successful cases of rehabilitation of bonded labour in Tamil Nadu (Murthy 2001).

In the case of the Kol tribals engaged in quarry mining in Shankargarh district of Allahabad, a protracted process of empowerment and organisation led to formation of groups and to demands for lease rights. Due to a supportive district administration and the arduous work of organisations like *Sahyog, Sankalp* and *Mahila Samakhya*, the kols gained mining rights in a number of villages, were able to overcome the opposition of contractors and nearly treble their income over a short period of time, drastically reducing bondage in the area.[50] However, crucial issues of building managerial capacity and cohesiveness among the self-help groups still remain important.[51]

Similarly, eleven *Sahariya* families freed from bondage in a quarry with the help of an NGO, Bandhua Mukti Morcha, were given lease rights to a 70-bigha quarry in Shivpuri district of Madhya Pradesh. This has resulted in higher incomes for the labourers and high royalties for the government. The district administration started a number of convergent schemes to help the released labourers, including the opening of a school and the grant of land. When the contractors refused to pick up the stones, the families were given a tractor and trolley for transport (Bal, 2003). The district, according to BMM, has over 15,000 bonded labourers still working in the stone quarries.[52]

There is micro and macro evidence that the organisation and empowerment of the poor leads to a decline in bondage. Since bonded labour systems are extremely well entrenched in local power structures, with very good linkages with other centres of power, significant organisational strength or powerful linkages are needed among organisations seeking to eradicate the system. Trade unions do not always have a strong presence in the sectors in which bonded labour incidence is high, but in certain cases (e.g. brick kiln workers of Punjab) they have helped in reducing the problem. Powerful movements of agricultural labourers, as in Bihar, have had a similar impact.

Internationally supported programmes for the elimination of bondage are few, with the exception of a number of initiatives for elimination of child labour. Since June 2000, the ILO has been implementing a project to prevent and eliminate bonded labour in South Asia. In India, the project has been operational in Rangareddy district of Andhra Pradesh and Tiruvallur district of Tamil Nadu. Starting from the premise that lack of access of the poorest households to appropriate financial services is one of the causes of bonded labour, the project's initial aim was to induce microfinance institutions to develop products and services targeted at the poorest groups. Recognising the social dimensions of bondage, the project aims also at other areas including public sensitisation and rights awareness, adult literacy, organising workers, income generation and vocational skills development. The project considers that "strategies to eliminate bonded labour need to go beyond the symptoms to address the root causes (labour market segmentation, entrenched social discrimination, lack of financial services, lack of outreach of social partners in the informal economy). The multifaceted and deeply rooted nature of those causes requires an integrated and longterm strategy." Project experience also indicates that it may be useful, when designing interventions, to draw a distinction between 'severe' and 'mild' forms of bonded labour, the latter being more suited to specific micro-finance based solutions which would be inappropriate for the former (ILO, 2004).[53]

The broad linkages between bonded labour systems, production structures and the pattern of development need to be better understood since the roots of bondage are related to factors such as production technologies on the one hand, and economic vulnerability and structural inequality, on the other. The NCRL Report (1991) had highlighted long-term development and land reform measures along with poverty alleviation and social security as pathways out of bondage.

Finally, the persistence of bondage is a consequence of weak enforcement of labour laws and the laws of the land. India has a plethora of labour legislation regulating the conditions of work of contract and migrant labour, prohibiting child labour in hazardous industries, and for minimum wages. But these remain in large part unimplemented. More significantly, in case after case, there is violation of the fundamental human rights of workers, which are enshrined in the Constitution. A concerted effort to ensure implementation of the law, by government in close cooperation with employers' and workers' organisations and civil society, is called for in this respect.

Notes:

1 The text of the Declaration is available at: http://www.ilo.org/declaration

2 See Declaration Working Papers Nos. 20-26

3 See Declaration Working Paper No. 11 by L. Mishra for an annotated bibliography on bonded labour in India

4 This has been largely through the personal judgement of the researchers, as it was not possible to seek to independently verify each and every report.

5 Customary and obligatory labour services which are performed without remuneration by labourers, tenants or low caste employees for upper caste landlords and/or employers.

6 "Nominal wages" means a wage which is less than (a) the minimum wages fixed by the Government, in relation to the same or similar labour; and (b) where no such minimum wage has been fixed, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality

7 Taken by itself, the issue of identification of bonded labour with non-payment of minimum wages has caused some unnecessary ambiguity in interpretation. For example, the Report of the Central Committee to draw up a workable definition of Bonded Labour, Ministry of Labour, Government of India (1994) concluded that all cases of payment of wages below minimum wage could not straightforwardly be brought under the Act. This, in our view, was not the intention of the Act, nor of the Supreme Court. The issue of minimum wages is simply one yardstick (and by no means a necessary or sufficient yardstick) to test whether wages are being unduly depressed in a labour relationship.

8 The National Human Rights Commission (NHRC) Expert Group (2001) has concluded that the intention of Article 23 of the Constitution is the prohibition of all kinds of forced labour and not only forced labour based on debt. The Group has made detailed recommendations with regard to provisions of the Act and for rehabilitation.

9 Ministry of Labour, 1991a

10 Ministry of Labour, 1991b

11 Under these systems, young women are "wedded" to God, declared to be 'saints' and become the property of the local temple and under the control of the men who run it. They suffer from sexual exploitation and deprivations such as prohibition on undertaking other work, leaving the village and marrying again.

12 For a study of evolution of labour relations in India, see Kumar (1965) and Patnaik (1983).

13 A number of studies have documented the growth of debt bondage in different sectors in India during the colonial period e.g. see Sarkar (1985). A full review of these is outside the cope of this paper, but both the subsequent break and continuity and novelty in the causes and the institutions which account for the persistence of debt bondage need to be fully appreciated.

14 Breman's (1974) study of the *Dublas* in Gujarat shows how the decline in traditional hereditary dependence took place, and how in certain areas, it came to be replaced by a different form of "attachment". Srivastava's (1989) study shows the virtual disappearance of the traditional *Hali* system from his area of study in Western Uttar Pradesh and a considerable decline in the importance of traditional *halwaha* and *jeura* relationships in the Eastern UP study villages. Wilson (1999) reports a decline in traditional labour attachment in Nalanda in Bihar since the early 1960s. In 1981-83, 41 percent of labour households had an attached labourer but this proportion had declined to 26% in 1995- 96. Jha (1997) also finds evidence of attached labour in 21 percent labour households in Purnea district of Bihar but also reports variations in the terms and conditions of their contract. Corta and Venkateshwarlu (1999) find that traditional attachment in their study areas of Chittoor district declined from 24 percent of male labourers in 1970 to nil in 1995. Kapadia (1996) and Athreya et al (1990) report that hardly any pannaiyal (tied) labourers were left in Trichurapalli district in Tamil Nadu. The National Commission on Rural Labour, 1991, reports a similar decline in labour attachment in Palamau (Bihar) and Varanasi (Uttar Pradesh).

15 Thorner and Thorner (1962) cite the findings First Agricultural Labour Enquiry Committee, to show that there was a high proportion of long-duration contracts in coastal Andhra Pradesh and Punjab.

16 Srivastava (1989) provides a detailed account of the recruitment pattern for labour migrants in different sectors.

17 For a review of labour migration in India and its impacts, see

Srivastava (1998) and Srivastava and Sasikumar (2003).

18 But migrant labour and its condition has a low visibility in Kerala. Not surprisingly, NGOs have detected migrant bonded labour in some industries.

19 The problem of bondage among migrant labourers in Punjab has been highlighted in several reports and complaints filed by Jai Singh of the VSJ. The NHRC has also taken cognisance of a complaint filed by the Indian Social Institute and other reports of sale and trafficking of labourers (and possible sexual exploitation of women workers) in Punjab. Its own investigation revealed extensive trafficking in labour for the last 30 years in Punjab. It has accordingly directed the Central and State governments to formulate schemes which can ameliorate the condition of migrant labourers in the state. Replies from the government are now under consideration of the Commission (NHRC Annual Report, 2001- 02).

20 The kols are given the status of Scheduled Castes in Uttar Pradesh, whereas in neighbouring Madhya Pradesh, they are categorised as Scheduled Tribes.

21 NHRC Case no. 136/34/2002-03.

22 CEC 2004, p. 25-26; Aneeta Sharma, *Times of India*, Nov. 9,1999, Mumbai. labour bondage in agriculture have been reported from Raisen and Ratlam districts in the State (CEC 2004, p. 51).

23 Chamaraj, 2003; see also CEC, 2004, p. 42-45

24 CEC (2004) quotes a report in Newstime of April 6, 2001, regarding the identification and release of 33 bonded labourers in Mahboobnagar district. Venkateswarlu (2003) reports a very high incidence of bonded child labour, mainly girls employed in the cotton fields, particularly in the Telangana and Rayalseema regions of Andhra Pradesh (see also CEC, 2004, p. 21). There are also reports of bondage of labourers, mainly scheduled caste, in the labour intensive cultivation of sugarcane, cotton, andtobacco in the coastal areas, and several thousand bonded labourers employed in lemon plantations inNellore district (ibid., p. 20).

25 Rao, 1997; Venkateswarlu 2003, Corta and Venkateswarlu 2000.

26 Indian Express, April 13, 1998.

27 Reported in the submission of Anti-Slavery International to the 60th (July-August 1997) meeting of the Human Rights Committee which monitors the implementation of the United Nations' International

Covenant on Civil and Political Rights.

28 Minutes of the District Level Committee, forwarded to the Ministry of Labour by the Labour Commissioner, Arunachal Pradesh, on 19th March, 1999.

29 NHRC Case No. 12/2/1999-2000.

30 However, the study is silent on some crucial aspects eg. whether minimum wages are paid, whether accounts of payment and deductions are maintained. It does aver that the advances do not carry interest. (for a similar account of Haryana kilns, see Rajalakshmi, (2004)

31 The Commissioners' survey covered brick kilns in only two districts, while the kilns are spread all over the state. The workers were usually brought after receiving an advance of Rs 5000 to 10000. The initial preparatory work was unpaid. The wages paid were only about 60% of the initially-stated wages, the rest being accounted for by interest on the advance. The work was back-breaking and there were no fixed hours. If the family did not pay back the advance at the end of the season, the remaining amount was accounted for in the name of the family and signatures were taken from them under the condition that they would come back next year to clear the debt.

32 While the first group of 38 workers were able to get rehabilitation grants which were used to set up a cooperative brick kiln on a piece of land allotted by the Collector and to buy a lorry to transport the bricks, the other nine labourers had still not been able to secure the grant and were running from pillar to post. (Kannan, 2003a).

33 NHRC Case No. 22507/24/1999-00

34 NHRC Case No. 23327/24/1999-00

35 SACCS web site

36 Times of India, March 1, 2003.

37 SIFY, 11 February, 2004 (http://sify.com).

38 *The Tribune*, May 15, 2001, Chandigarh.

39 NHRC Case No. 1938/2/2002-03.

40 SACCS web site.

41 NHRC Case No. 1351/12/01-02.

42 *Business Line*, 20 November, 1997.

43 In Punjab, 65 labourers were released from a cold storage construction

site in Jalandhar district after complaints were received that the workers were tortured and female workers had been molested. A district administration enquiry found that the workers were promised only Rs 600 per month but had not been paid wages for 4 months. The employers paid the wage arrears to the employees and the workers were released and sent to their homes. However, the NHRC found that no steps had been taken by the authorities to rehabilitate the released workers and instructions were issued accordingly by the Commission (NHRC Case No. 663/19/1999-00 and NHRC Annual Report 2001-02). A sixteen year old boy, working as a bonded labourer in a construction company, was rescued by district officials in Cuddapah district. A contractor of Mahbubnagar district in Andhra Pradesh had brought him after paying Rs 16000 to his parents. No wages had been paid to him for the last six months and the contractor had refused to divulge his whereabouts to his parents (*The Hindu,* May 12, 2001).

44 Radha Venkatesan, The Indian Express, 27 February, 1997, New Delhi

45 Twenty-nine children were rescued from a circus in Kerala by an NGO (Bachban Bachao Andolan) in April 2004. The children had been brought from Nepal after their parents were duped by middlemen who promised them light household jobs. The circus owners had rejected the pleas of parents to hand them back (webindia123.com/news, New Delhi, April 23, 2004). In January 2001, a joint effort by the campaign against Child Labour, Peoples Union for Civil Liberties and the district authorities brought about the identification and release of 23 bonded child labourers from fishing camps in Shimoga in Karnataka (CEC 2004, p. 49). 12 children from Madurai district in Tamil Nadu were rescued from Ganjam and Raigada districts of Orissa due to the efforts of an NGO, the SOCO Trust, and the Adi-Dravidar Welfare Department. These boys were lured away by agents who paid money to their parents and made to work in "Murukku" (savoury) shops in Orissa under very difficult conditions. (The Hindu, June 24, 2001). Another 27 children from Madurai, who worked under similar conditions in sweetmeat shops in Western Uttar Pradesh were rescued by the district administration, once again because of the efforts of the same NGO (Kannan 2003b). Seventeen bonded children were released in Delhi on the initiative of a NGO. Some of the children had been 'bought' in Bihar on payment of Rs 1000 each and had been made to work in Mumbai before being brought to Delhi to work

in a tailoring establishment. The children were made to work in 12 hour shifts and were given only food as wages (Indian-Asian News Service, June 5, 2001)

46 http://www.sholay.com/stories/2000/august/12082000.htm

47 NHRC case no. 265/2/24/2000-01.

48 NHRC Annual Report 1999-00, para 7.12

49 The Supreme Court judgement in the case of PUCL vs the State of Tamil Nadu (dated May 5, 2004) has reviewed the Report of Expert Group on Bonded Labour set up by the NHRC, the observations of Amicus Curiae appointed by the Court, and the facts placed by the Union government. The judgement notes that identification, release and rehabilitation are the three components of the 1976 legislation and that the last has been the most wanting.

50 Roy, 2000. Interview with Justice Amar Saran, a former member of the Vigilance Committee in Allahabad, and member of the NHRC Group formed to investigate the condition of the Kols in the Pathar area of Uttar Pradesh.

51 Interview with Sheba Jose, Convenor, *Sahyog*.

52 For more details, see the CEC submission to the Planning Commission. (CEC 2001b)

53 The latter appears to refer to 'bondage' for a comparatively short and perhaps more clearly defined period. But both the analytical/empirical and legal basis for drawing the distinction is unclear in the note that has been cited.

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Annexe-1

The Bonded Labour System (Abolition)Act, 1976 (19 of 1976)

[9th February, 1976]

An Act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:-

STATEMENT OF OBJECTS AND REASONS

1. There still exists in different parts of the country a system of usury under which the debtor or his descendants or dependents have to work for the creditor without reasonable wages or with no wages in order to extinguish the debt. At times, several generations work under bondage for the repayment of a paltry sum which had been taken by some remote ancestor. The interest rates are exorbitant and such bondage cannot be interpreted as the result of any legitimate contract or agreement. The system implies the infringement of the basic human rights and destruction of dignity of human labour.

2. Article 23(1) of the Constitution prohibits 'begar', and other similar forms of forced labour and further provides that any contravention of the said prohibition shall be an offence punishable in accordance with law. Article 35(a)(ii) of the Constitution not only confers the power on Parliament to provide for punishment for the contravention of the said provisions of Article 23(1) bur expressly takes away the power of the State Lagislature to make any legislation with regard to the said matter. Accordingly. The Bonded Labour System was abolished and the bonded labourers were freed and discharged frim any obligarion to render any bonded labour and their bonded debts were also extinguished. The Ordinance further affords protection to the freed bonded labourers from eviction from their homestead. Contracentions of the provisions of the Ordinance have been made offences punishable in accordance with law. Provisions for the follow-up measures and ecomonic rehabilitations of the freed bonded labourers have alos been made in the Ordinance.

3. The Bill seeks to replace the said Ordinance.

CHAPTER - I

PRELIMINARY

1. Short title, extent and commencement-

(1) This Act may be called the Bonded Labour System (Abolition) Act, 1976.
(2) It extends to the whole of India.
(3) It shall be deemed to have come into force on the 25th day of October, 1975.

2.Definitions – In this Act, unless the context otherwise requires,

(a)"advance" means an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another persons (hereinafter referred to as the debtor);

(b) "agreement" means as agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

Explanation – The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social custom, in relation to the following forms of forced labour, namely:-

Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-Galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Paduyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewar, Sewakia, Seri, Vetti;

(c) "ascendant" or "descendant", in relation to a person belonging to a matriarchal society, means the person who corresponds to such expression in accordance with the law of succession in force in such society;

(d) "bonded debt" means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of the bonded labour system;

(e) "bonded labour" means any labour or service rendered under the bonded labour system;

(f) “bonded labourer” means a labourer who incurs, or has, or is presumed to have, incurred a bonded debt;

(g) “bonded labour system” means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,-

(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of any obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community,-

he would-

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for benefit of the creditor, for an unspecified period, either without wages or for nominal wages, or

(2) for the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market value any of his property or product of his labour of the labour of a member of his family or any persons dependent on him,

and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

[**Explanation** – For the removal of doubts, it is hereby declared that any system of force or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section 2 of the Contract labour (Regulation and Abolition) Act, 1970 (73 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of section 2 of the Inter-State Migrant Workman (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or his subjected to all or any of the disabilities referred in sub-clause (2) to (4), is "bonded labour system" within the meaning of this clause].

(h) "family" in relation to a person, includes the ascendant and descendant of such person;

(i) "nominal wages", in relation to any labour, means a wage which is less than,-

(a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force, and
(b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;
(j) "prescribed" means prescribed by rules made under this Act.

3. Act to have over-riding effect – The provisions of this Act shall have effect notwithstanding anything in consistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

CHAPTER – II
ABOLITION OF BONDED LABOUR SYSTEM

4. Abolition of bonded labour system-

(1) on the commencement of this Act, the bonded labour system shall stand abolished any every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour.

(2) After the commencement of this Act, no person shall-

(a) make any advance under, or in pursuance of, the bonded labour system, or

(b) compel any person to render any bonded labour or other form of forced labour.

5. Agreement, custom, etc, to be void – On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act) by virtue of which any person, or any member of the family or dependent of such person, is required to do any work or render any service as a bonded labourers, shall be void and inoperative.

CHAPTER - III
EXTINGUISHMENT OF LIABILITY TO REPAY BONDED DEBT

6. Liability to repay bonded debt to stand extinguished-

(1) On the commencement of this Act every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

(2) After the commencement of this Act, no suit or other proceedings shall lie in any civil court or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement to have been fully satisfied.

(4) Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and, where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale there of, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family or other dependent was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to be possession of the person form whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5) is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared that, where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act:

Provided that the bonded labour, or an agent authorised by him in this behalf, may, at any time within five years from such commencement, apply to have the sale set aside on his depositing in court for payment to the decree-holder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as mesne profits, which may, since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding, for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement, stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained on civil prison, whether before or after judgement, shall be released from detention forthwith.

7. Property of bonded labourer to be freed from mortgage, etc.-

(1) All property vested in a bonded labourer which was, immediately before the commencement of this Act under any mortgage, charge, lien, or other encumbrances, in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien, or other encumbrances, and where any such property was immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or incumbrance, such property shall (except where it was subject to any other charge), on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property referred to in sub-section (1) to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or incumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

8. Freed bonded labourer not to be evicted from homestead, etc.-

(1) No person who has been freed and discharged under this Act from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour.

(2) If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section (1), the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as early as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

9. Creditor not to accept payment against extinguished debt.-
(1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties, which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted on contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

CHAPTER – IV
IMPLEMENTING AUTHORITIES

10. **Authorities who may be specified for implementing the provisions of the Act.-** The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

11. Duty of District Magistrate and other officers to ensure credit.- The District Magistrate authorised by the State Government under section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract and further bonded debt.

12. Duty of District Magistrate and officers authorised by him.- It shall be the duty of every District Magistrate and every officer specified by him under section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

CHAPTER – V
VIGILANCE COMMITTEES

13. Vigilance Committees.-

(1) Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division at it may think it.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members, namely:-

(a) the District Magistrate, or a person nominated by him, who shall be the Chairman;

(b)\ three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the District, to be nominated by the District Magistrate;

(c) two social workers, resident in the district, to be nominated by the District Magistrate;

(d) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government;

(e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely:-

(a) the Sub-Divisional Magistrate, or person nominated by him, who shall be the Chairman;

(b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(c) two social workers, resident in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(d) not more than three persons to represent the official or non-official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate;

(e) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(f) one officer specified under section 10 and functioning in the Sub-Division.

(4) Each Vigilance Committee shall regulate its own procedure and secretarial-assistance, as many be necessary, shall be provided by-

(a) the District Magistrate, in the case of a Vigilance Committee constituted for the district;

(b) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

(5) No proceeding of a Vigilance Committee shall be invalid merely by reason of any defect in the constitution, or the proceedings, of the Vigilance Committee.

14. Functions of Vigilance Committees.-
(1) The functions of each Vigilance Committee shall be,-

(a) to advise the District Magistrate or any officer authorised by him as to the efforts made, and action taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented;

(b) to provide for the economic and social rehabilitation of the freed bonded labourers;

(c) to co-ordinate the functions of rural banks and co-operative societies with a view to analising adequate credit to the freed bonded labourer;

(d) to keep an eye on the number of offences of which cognizance has been taken under this Act;

(e) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;

(f) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

(2) A Vigilance Committee may authorise one of its members to defend a suit against a freed bonded labourer and the member so authorised shall be deemed, for the purpose of such, suit to be the authorised agent of the freed bonded labourer.

15. Burden of proof.- Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

CHAPTER-VI

OFFENCES AND PROCEDURE FOR TRIAL

16. Punishment for enforcement of bonded labour.- Whoever, after the commencement of this Act, compels any persons to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

17. Punishment for advancement of bonded debt.- Whoever advances, after the commencement of this Act, any bonded debt shall be imprisonment for a term which may extend to three years and also fine which may extend to two thousand rupees.

18. Punishment for extracting bonded labour under the bonded labour system.- Whoever enforces after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependent of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

19. Punishment for omission or failure to restore possession of property to bonded labourers.- Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

20. Abetment to be an offence.- Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.
Explanation.- For the purpose of this Act, "abetment" has the meaning assigned to it in the Indian Penal Code (45 of 1860).

21. Offences to be tried by Executive Magistrates.-
(1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and on such conferment of powers, the Executive Magistrate on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class, or of the second class, as the case may be.

(2) An offence under this Act may be tried summarily by a Magistrate.
22. Cognizance of offences.- Every offence under this Act shall be cognizable and bailable.

23. Offences by companies.-
(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business

of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-
(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

CHAPTER – VII
MISCELLANEOUS

24. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against any State Government or any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Act.

25. Jurisdiction of civil courts barred.- No civil court shall have jurisdiction in respect of any matter to which any provisions of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

26. Power to make rules.-
(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the authority to which application for the restoration of possession of property referred to in sub-section (4), or sub-section (5), of section 6 is to be submitted in pursuance of sub-section (6) of section 6;

(b)the time within which application for restoration of possession of property is to be made under sub-section (6) of section 6, to the prescribed authority;

(c) steps to be taken by Vigilance Committees under clause (a) of sub-section (1) of section 14, to ensure the implementation of the provisions of this Act or any rule made thereunder;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. Repeal and Saving.-

(1) The Bonded Labour System (Abolition) Ordinance, 1975 (17 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance (including any notification published, direction or nomination made, power conferred, duty imposed or officer specified) shall be deemed to have been done or taken under the corresponding provisions of this Act.

ANNEXE-2

THE BONDED LABOUR SYSTEM (ABOLITION) RULES, 1976

(As Amended by GSR No. 1455, dated 16-11-1978 and **SO No. 1755, dated 12-3-1983**.)

GSR 99(E).- In exercise of the powers conferred by sub-section (1), read with sub-section (2) of Section 26 of the Bonded Labour System (Abolition) Act, 1976 (19 of 1976), the Central Government hereby makes the following rules, namely:-

1. **Short title and commencement.-**

(1) These rules may be called the **Bonded Labour System (Abolition) Rules, 1976**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.-** In these rules, unless the context otherwise requires,-

(a) "Act" means the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);

(b) "District Vigilance Committee" means a Vigilance Committee constituted for a district under sub-section (1) of Section 13;

(c) "Section" means a section of the Act;

(d) "Sub-Divisional Vigilance Committee" means a Vigilance Committee constituted for a sub-division under sub-section (1) of Section 13.

3. **Term of Office, and vacation of seat, of members of District Vigilance Committee.-** [2][(1) Every member of a District Vigilance Committee, nominated under clauses (b), (c), (d) and (e) of sub-section (2) of Section 13 shall hold office for a period of two years from the date on which his nomination is notified in the Official Gazette and shall, on the expiry of the said period, continue to hold office until his successor is nominated and shall also be eligible for re-nomination.]

(1) Every member referred to in sub-rule (1),-

[1][(a) may, by giving notice in writing of not less than 30 days to the authority which nominated him, resign his office and, on such resignation being accepted or on the expiry of the notice

period of 30 days, whichever is earlier, shall be deemed to have vacated his office.]

(b) shall be deemed to have vacated his office,-

(i) if he fails to attend three consecutive meetings of theDistrict Vigilance Committee without obtaining leave of the Chiarman of such absence:

Provided that the authority, which nominated him may, if it is satisfied that such member was prevented by sufficient cause from attending the three consecutive meetings of the Committee, restore him to membership;

(ii) If he becomes subject to any of the following disqualifications, namely,-

(1) is adjudged insolvent;
(2) is declared to be of unsound mind by a competent Court;
(3) is convicted of an offence which, in the opinion of the authority, which nominated him, involves moral turpitude;

(a) may be removed from office, if the authority, which nominated such members, is of the opinion that such member has ceased to represent the interest to represent which he was nominated :

Provided that a member shall not be removed from office under this clause unless a reasonable opportunity is given to him for showing cause against such removal.

(3) A member, nominated to fill a casual vacancy shall hold office for the unexpired portion of the term of his predecessor.

4. Term of office, and vacation of seat, of members of Sub-Divisional Vigilance Committees.- [2][(1) Every member of a Sub-Divisional Vigilance Committee, nominated under clauses (b), (c), (d) and (e) of sub-section (3) of Section 13 shall hold office for a period of two years from the date on which his nomination is notified in the Official Gazette and shall, on the expiry of the said period, continue to hold office until his successor is nominated and shall also be eligible for re-nomination.]

(2) Every member referred to in sub-rule (1),-\

[3][(a) may, by giving notice in writing of not less than 30 days, to the authority which nominated him, resign his office and, on such resignation being accepted or on the expiry of the notice period of 30 days, whichever is earlier, shall be deemed to have vacated his office;]

(b) shall be deemed to have vacated his office,-

(i) if he fails to attend three consecutive meetings of the Sub-Divisional Vigilance Committee without obtaining leave of the Chairman of such Committee for such absence:

Provided that the authority which nominated him may, if it is satisfied that such member was prevented by sufficient cause from attending three consecutive meetings of the Committee, restore him to membership;

(ii) if he becomes subject to any of the following\ disqualifications, namely:-

(1) is adjudged insolvent;

(2) is declared to be of unsound mind by a competent Court;

(3) is convicted of an offence which, in the opinion of the authority, which nominated him, involves moral turpitude;

(c) may be removed form office, if the authority which nominated such member is of the opinion that such member has ceased to represent the interest to represent which he was nominated:

Provided that a member shall not be removed from office under the clause unless a reasonable opportunity is given to him for showing cause against such removal.

(3) A member, nominated to fill a casual vacancy shall hold office for the unexpired portion of the term of his predecessor.

5. Prescribed authority under sub-section (6) of Section 6.- An application under sub-section (6) of Section 6 for restoration of possession of any property referred to in sub-section (4) or sub-section (5) of that section shall be made to the Executive Magistrate, on whom the powers of a Judicial Magistrate of the first class or of the second class have been conferred under sub-section (1) of Section 21, and within the local limits of whose jurisdiction the said property is, or the applicant has reason to believe is situated at the time of making the application:

Provided that where there are two Executive Magistrates, on one of whom the powers of a judicial Magistrate of the first class and on the other the powers of a Judicial Magistrate of the second class have been conferred under sub-section (1), of Section 21 having jurisdiction to entertain the application for restoration of possession of property referred to in sub-rule (1), the application shall be made to the Executive Magistrate on whom the powers of a Judicial Magistrate of the second class have been conferred.

6. Time within which an application under sub-section (6) of Section 6 is to be made.- An application under sub-section (6) of Section 6 for restoration of possession of any property referred to in sub-section (4) or sub-section (5) of that section shall be made within a period of ninety days from the date on which these rules come into force.

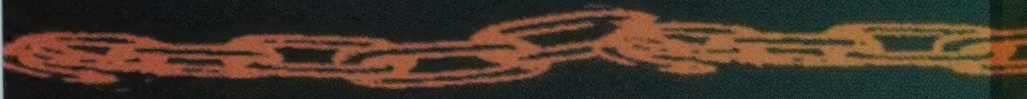
7. Records to be maintained by District Vigilance Committees to ensure the implementation of the provisions of the Act and Rules.- In order to ensure the implementation of the Act and the Rules, every District Vigilance Committee shall maintain the following registers in respect of freed bonded labour within the local limits of its jurisdiction, namely:-

(a) a register containing the names and addresses of freed bonded labour;

(b) a register containing statistics relating to the vocation, occupation and income of every freed bonded labour;

(c) a register containing details of the benefits which the freed bonded labour are receiving, including benefits in the form of land, inputs for agriculture, training in handicrafts and allied occupations, loans at differential rates of interest or employment in urban or non-urban areas;

(d) a register containing details of cases under sub-section (6) of Section 6, sub-section (2) of Section 8, sub-section (2) of Section 9, Section 16, Section 17, Section 18, Section 19 and Section 20.



....There is slavery in India even today. The Indian form of slavery is deeply embedded in the caste system and since the caste system itself is thousands of years old the Indian form of slavery is equally old. The caste system has so many forms of discrimination and oppression built into it that some of these forms often fail to draw pointed attention. The bonded labour system is one such.

....There is no authoritative work which can deny the existence of this evil form of slavery even after so many years of "modernity". The constitution of India had recognized this form of slavery and banned it in no uncertain terms. The ban is contained in the chapter on Fundamental Rights itself. There is nothing more important in the Indian legal regime than the chapter on fundamental rights and therefore one must assume that there was the highest political will and unanimity in the constituent assembly to do away with this pernicious practice. Interestingly the constitutionalists did not think it adequate to be satisfied with abolition of untouchability. They thought it fit to write yet another article that specifically banned begar and bondage through Article 23.

....More than two and half decades after the constitution became the law of the land-it was realized that bonded labour would not disappear through declarations alone-even if such declarations were contained as fundamental rights. Hence a special law was enacted. This law called the Bonded Labour Abolition Act was enacted in the year 1976. It was the year of the emergency. Ironically enough bonded labourers had to await emergency conditions to receive a piece of legislation that provided very elaborately for their liberation.

Babu Mathew
Country Director
Action Aid, India

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"The bonded labour system is ... something which is lesser known and even lesser is it recognized partly because it gets camouflaged within the wider evil of the caste system itself....

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Let us remember that political will comes in two forms that which originates from above and that which can be generated from below. One wishes that both were possible but even when the former is lacking the latter should not be found wanting. Bonded labourers need their own agency. If the bonded laour act is to be implemented, unionization of bonded labour is a top priority. We encourage JEEVIKA and the Union of Bonded labourers and Landless Agricultural Workers in Karnataka to pursue this path with determination as they have done so well in the past."

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